

MONTANA LEGISLATIVE HISTORY

Chapter 556 1999

Bill H 174 S \_\_\_\_\_

Original bill & history ✓c

H. Committee on Taxation

Hearing Date(s) 2-12 ✓c

3-19 ✓c

3-26 ✓c

\_\_\_\_\_c

Date Out \_\_\_\_\_c

S. Committee on Taxation

Hearing Date(s) 4-12 ✓c

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Did this bill originate in an interim committee? \_\_\_\_Yes \_\_\_\_No

Committee \_\_\_\_\_

Report \_\_\_\_\_

### LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

|                                                                                                                                                     |                                                       |                        |    |
|-----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|------------------------|----|
| 2/02                                                                                                                                                | Hearing                                               |                        |    |
| 2/10                                                                                                                                                | Committee Executive Action--Bill Passed               | 8                      | 2  |
| 2/10                                                                                                                                                | Committee Report--Bill Passed                         |                        |    |
| 2/12                                                                                                                                                | 2nd Reading Passed                                    | 70                     | 29 |
| 2/13                                                                                                                                                | 3rd Reading Passed                                    | 67                     | 33 |
|                                                                                                                                                     | Transmitted to Senate                                 |                        |    |
| 2/23                                                                                                                                                | Referred to State Administration                      |                        |    |
| 3/09                                                                                                                                                | Hearing                                               |                        |    |
| 3/10                                                                                                                                                | Committee Executive Action--Bill Concurred            | 5                      | 0  |
| 3/10                                                                                                                                                | Committee Report--Bill Concurred                      |                        |    |
| 3/13                                                                                                                                                | 2nd Reading Concurred                                 | 47                     | 0  |
| 3/15                                                                                                                                                | 3rd Reading Concurred                                 | 45                     | 4  |
|                                                                                                                                                     | Returned to House                                     |                        |    |
| 3/16                                                                                                                                                | Sent to Enrolling                                     |                        |    |
| 3/16                                                                                                                                                | Returned from Enrolling                               |                        |    |
| 3/17                                                                                                                                                | Signed by Speaker                                     |                        |    |
| 3/17                                                                                                                                                | Signed by President                                   |                        |    |
| 3/18                                                                                                                                                | Transmitted to Governor                               |                        |    |
| 3/25                                                                                                                                                | Signed by Governor                                    |                        |    |
| 3/27                                                                                                                                                | Chapter Number Assigned                               |                        |    |
|                                                                                                                                                     | Chapter Number 175                                    |                        |    |
|                                                                                                                                                     | Effective Date: 3/25/1999 - All Sections              |                        |    |
| Introduced by Hibbard                                                                                                                               |                                                       | LC0380 Drafter: Martin |    |
| Generally Revise the Taxation of Electrical Generation Facilities to Comport with the Emerging Competitive Markets in the Supply of Electricity:... |                                                       |                        |    |
| By Request of Revenue Oversight Committee                                                                                                           |                                                       |                        |    |
| 12/24                                                                                                                                               | Introduced                                            |                        |    |
| 1/04                                                                                                                                                | 1st Reading                                           |                        |    |
| 1/04                                                                                                                                                | Referred to Taxation                                  |                        |    |
| 1/04                                                                                                                                                | Fiscal Note Requested                                 |                        |    |
| 2/01                                                                                                                                                | Fiscal Note Received                                  |                        |    |
| 2/08                                                                                                                                                | Fiscal Note Printed                                   |                        |    |
| 2/12                                                                                                                                                | Hearing                                               |                        |    |
| 3/19                                                                                                                                                | Tabled in Committee                                   |                        |    |
| 3/26                                                                                                                                                | Taken from Table in Committee                         |                        |    |
| 3/26                                                                                                                                                | Committee Executive Action--Bill Passed as Amended    | 20                     | 0  |
| 3/26                                                                                                                                                | Committee Report--Bill Passed as Amended              |                        |    |
| 3/27                                                                                                                                                | 2nd Reading Passed                                    | 75                     | 24 |
| 3/29                                                                                                                                                | 3rd Reading Passed                                    | 81                     | 18 |
|                                                                                                                                                     | Transmitted to Senate                                 |                        |    |
| 3/29                                                                                                                                                | Revised Fiscal Note Requested                         |                        |    |
| 3/30                                                                                                                                                | Referred to Taxation                                  |                        |    |
| 4/06                                                                                                                                                | Revised Fiscal Note Received                          |                        |    |
| 4/08                                                                                                                                                | Revised Fiscal Note Printed                           |                        |    |
| 4/08                                                                                                                                                | Revised Fiscal Note Requested                         |                        |    |
| 4/09                                                                                                                                                | Revised Fiscal Note Received                          |                        |    |
| 4/12                                                                                                                                                | Hearing                                               |                        |    |
| 4/12                                                                                                                                                | Committee Executive Action--Bill Concurred as Amended | 6                      | 1  |
| 4/12                                                                                                                                                | Committee Report--Bill Concurred as Amended           |                        |    |
| 4/13                                                                                                                                                | 2nd Reading Concurred                                 | 48                     | 1  |
| 4/14                                                                                                                                                | Revised Fiscal Note Printed                           |                        |    |

|        |                                                                                                                                                                                                                                     |                              |    |
|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|----|
| 4/14   | 3rd Reading Concurred                                                                                                                                                                                                               | 48                           | 2  |
|        | Returned to House with Amendments                                                                                                                                                                                                   |                              |    |
| 4/17   | 2nd Reading Senate Amendments Concurred                                                                                                                                                                                             | 84                           | 10 |
| 4/19   | 3rd Reading Passed as Amended by Senate                                                                                                                                                                                             | 81                           | 19 |
| 4/19   | Sent to Enrolling                                                                                                                                                                                                                   |                              |    |
| 4/20   | Returned from Enrolling                                                                                                                                                                                                             |                              |    |
| 4/21   | Signed by President                                                                                                                                                                                                                 |                              |    |
| 4/21   | Signed by Speaker                                                                                                                                                                                                                   |                              |    |
| 4/22   | Transmitted to Governor                                                                                                                                                                                                             |                              |    |
| 4/30   | Signed by Governor                                                                                                                                                                                                                  |                              |    |
| 5/04   | Chapter Number Assigned                                                                                                                                                                                                             |                              |    |
|        | Chapter Number 556                                                                                                                                                                                                                  |                              |    |
|        | Effective Date: 4/30/1999 - Sections 14 and 38                                                                                                                                                                                      |                              |    |
|        | Effective Date: 1/01/2000 - Sections 1-13, 15-37, 39 and 40                                                                                                                                                                         |                              |    |
| HB 175 | Introduced by Gillan                                                                                                                                                                                                                | LC0853 Drafter: Heffelfinger |    |
|        | Provide That a Declaration for Nomination and a Declaration of Intent for a Write-in Candidate May Be Sent by Facsimile Transmission, Delivered in Person, or Mailed to the Election Administrator or to the Secretary of State;... |                              |    |
| 12/24  | Introduced                                                                                                                                                                                                                          |                              |    |
| 1/04   | 1st Reading                                                                                                                                                                                                                         |                              |    |
| 1/04   | Referred to State Administration                                                                                                                                                                                                    |                              |    |
| 1/13   | Hearing                                                                                                                                                                                                                             |                              |    |
| 1/20   | Committee Executive Action--Bill Passed                                                                                                                                                                                             | 17                           | 0  |
| 1/21   | Committee Report--Bill Passed as Amended                                                                                                                                                                                            |                              |    |
| 1/23   | 2nd Reading Passed as Amended                                                                                                                                                                                                       | 99                           | 1  |
| 1/26   | 3rd Reading Passed                                                                                                                                                                                                                  | 99                           | 0  |
|        | Transmitted to Senate                                                                                                                                                                                                               |                              |    |
| 1/27   | Referred to State Administration                                                                                                                                                                                                    |                              |    |
| 2/08   | Hearing                                                                                                                                                                                                                             |                              |    |
| 2/08   | Committee Executive Action--Bill Concurred                                                                                                                                                                                          | 4                            | 0  |
| 2/09   | Committee Report--Bill Concurred                                                                                                                                                                                                    |                              |    |
| 2/13   | 2nd Reading Concurred                                                                                                                                                                                                               | 45                           | 0  |
| 2/15   | 3rd Reading Concurred                                                                                                                                                                                                               | 50                           | 0  |
|        | Returned to House                                                                                                                                                                                                                   |                              |    |
| 2/16   | Sent to Enrolling                                                                                                                                                                                                                   |                              |    |
| 2/16   | Returned from Enrolling                                                                                                                                                                                                             |                              |    |
| 2/17   | Signed by Speaker                                                                                                                                                                                                                   |                              |    |
| 2/18   | Signed by President                                                                                                                                                                                                                 |                              |    |
| 2/19   | Transmitted to Governor                                                                                                                                                                                                             |                              |    |
| 2/24   | Signed by Governor                                                                                                                                                                                                                  |                              |    |
| 3/02   | Chapter Number Assigned                                                                                                                                                                                                             |                              |    |
|        | Chapter Number 40                                                                                                                                                                                                                   |                              |    |
|        | Effective Date: 2/24/1999 - All Sections                                                                                                                                                                                            |                              |    |
| HB 176 | Introduced by E. Bergsagel                                                                                                                                                                                                          | LC0224 Drafter: Fox          |    |
|        | Revise the Disposition of Youth Court Records for the Purposes of Research and Program Evaluation;...                                                                                                                               |                              |    |
|        | By Request of Correctional Standards and Oversight Committee                                                                                                                                                                        |                              |    |

HOUSE BILL NO. 174  
INTRODUCED BY HIBBARD C  
BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE TAXATION OF ELECTRIC UTILITIES TO COMPORT WITH THE EMERGING COMPETITIVE MARKETS IN THE SUPPLY OF ELECTRICITY; CREATING A SEPARATE PROPERTY TAXATION CLASS FOR ELECTRIC UTILITY PROPERTY; TAXING ELECTRIC UTILITY PROPERTY AT 6 PERCENT OF ITS MARKET VALUE; REDUCING THE TAX RATE ON CLASS SEVEN PROPERTY TO 6 PERCENT FROM 8 PERCENT; IMPOSING A 0.25 CENT PER KILOWATT-HOUR EXCISE TAX ON THE CONSUMPTION OF ELECTRICITY; ALLOWING NONRESIDENTIAL PURCHASERS OF ELECTRICITY TO PAY THE TAX AT 5.1 PERCENT OF THE DELIVERED PRICE OF ELECTRICITY; IMPOSING A 0.175 CENT PER KILOWATT-HOUR EXCISE TAX ON THE CONSUMPTION OF ELECTRICITY BY CUSTOMERS OF AN ELECTRIC UTILITY THAT HAS DEFERRED ENTRY INTO COMPETITION; ALLOWING NONRESIDENTIAL PURCHASERS OF ELECTRICITY TO PAY THE TAX AT 3.1 PERCENT OF THE DELIVERED PRICE OF ELECTRICITY PURCHASED FROM AN ELECTRIC UTILITY THAT HAS DEFERRED ENTRY INTO COMPETITION; IMPOSING AN ADDITIONAL ELECTRICAL ENERGY PRODUCERS' LICENSE TAX IN THE AMOUNT EQUAL TO 0.06 CENT PER KILOWATT HOUR OF ELECTRICAL ENERGY PRODUCED; PROVIDING AN EXEMPTION FROM THE ADDITIONAL ELECTRICAL ENERGY PRODUCERS' LICENSE TAX; PROVIDING FOR THE DISTRIBUTION OF EXCISE TAX REVENUE AND THE ADDITIONAL ELECTRICAL ENERGY PRODUCERS' LICENSE TAX REVENUE TO TAXING JURISDICTIONS; PROVIDING A STATUTORY APPROPRIATION FOR THE DISTRIBUTION OF TAX REVENUE TO TAXING JURISDICTIONS; REVISING THE CLASSIFICATION OF COUNTIES; REVISING THE DEBT LIMITS OF TAXING JURISDICTIONS; AMENDING SECTIONS 7-1-2111, 7-7-107, 7-7-2101, 7-7-2203, 7-7-4201, 7-7-4202, 7-14-2524, 7-14-2525, 7-16-2327, 7-16-4104, 15-6-137, 15-6-141, 15-32-107, 15-51-101, 15-51-102, 15-51-103, 17-7-502, AND 20-9-406, MCA; PROVIDING A CONTINGENT VOIDNESS PROVISION; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short title.** [Sections 1 through 23] may be cited as the "Electricity

Excise Tax Act".

**NEW SECTION. Section 2. Legislative findings and declaration of purpose.** (1) The legislature finds that the restructuring of the electric utility industry in Montana implemented by Chapter 505, Laws of 1997, including the unbundling of services and the provision that allows Montana customers to choose their supplier of electricity and related services in a competitive market, renders the existing method of property taxation of the electric utility industry an impediment to competition.

(2) The legislature further finds that the restructuring of the electric utility industry necessitates changes to the existing system of property taxation that include reducing the tax rate applied to electric utility property and imposing a replacement tax in order:

(a) to avoid placing a supplier engaged in the business of distributing, supplying, selling, or transmitting electricity at a competitive advantage or disadvantage;

(b) to preserve the revenue base of the existing property tax system for taxing jurisdictions in the state;

(c) to minimize the shift in tax burden and the imposition of a higher tax burden on consumers of electricity by class of customer; and

(d) to minimize additional administrative costs and the burden of compliance.

(3) The legislature further finds that a reduction in the property tax rates applied to electric utilities must be replaced by an excise tax on the final consumption of electricity as measured by kilowatt hours consumed.

(4) The legislature further finds that to increase the relative tax burden borne by nonresidential users of electricity under the existing property tax structure may impose additional economic burdens that could adversely affect economic development and business retention in the state unless these users are provided options for paying an excise tax on the basis of delivered price.

(5) The legislature further finds that a significant amount of electricity is exported from Montana and that the imposition of an excise tax on Montana customers would not raise sufficient replacement revenue.

(6) The legislature further finds that taxes imposed on the electric utility industry are in reality hidden taxes that are passed on to customers of electricity and that such a policy is inimical to open government and a fully informed citizenry on the tax policies of the state.

(7) (a) The legislature therefore declares that there is a compelling public need to modify the existing system of property taxation of electric utilities and to impose an electricity excise tax measured by the kilowatt

hours delivered to the purchaser to ensure competitive neutrality and constancy of revenue to taxing jurisdictions in the state.

(b) The legislature further declares that nonresidential purchasers of electricity must be allowed to pay the excise tax on the basis of delivered price rather than on kilowatt hours used.

(c) The legislature further declares that to ensure the integrity of local government finance, the electrical energy producers' license tax imposed under Title 15, chapter 51, must be increased for local government purposes.

**NEW SECTION. Section 3. Definitions.** As used in [sections 1 through 23], unless the context requires otherwise, the following definitions apply:

(1) "Customer" or "purchaser" means a person who acquires for consideration electricity for use or consumption and not for resale. A customer or purchaser does not include a person from whom the distribution services provider is prohibited by the federal or state constitution or a treaty, convention, statute, or court decision from recovering the related tax liability from the customer or purchaser.

(2) (a) "Delivered price" means the consideration paid by a customer for the distribution, supply, furnishing, sale, transmission, or delivery of electricity to a customer and not for resale and for all services directly related to the production, distribution, or transmission of electricity to a customer. Delivered price includes competitive transition charges allowed under 69-8-211 or 69-8-310.

(b) Delivered price does not include consideration paid for:

- (i) a charge for a dishonored check;
  - (ii) a finance or credit charge, penalty or charge for delayed payment, or discount for prompt payment;
  - (iii) a charge for reconnection of service or for replacement of service or relocation of facilities;
  - (iv) an advance or contribution for construction;
  - (v) the repair, inspection, or servicing of equipment located on customer premises;
  - (vi) the leasing or rental of equipment that is not necessary to supplying, furnishing, or selling electricity;
  - (vii) a purchase by a customer if the electricity supplier is an entity of the United States government;
- and
- (viii) an amount added to a customer's bill because of charges made pursuant to the tax imposed by [sections 1 through 23] and the tax imposed by 15-51-101.

(3) "Distribution services provider" means a person controlling or operating distribution facilities, as

that term is defined in 69-8-103, for distribution of electricity to the public. In the case in which more than one person participates in the delivery of electricity to a specific purchaser, the distribution services provider is the last services provider engaged in delivering electricity prior to its receipt by the purchaser. A distribution services provider includes a purchaser who generates electricity for the purchaser's own use but does not include electricity generated by the purchaser for noncommercial use or for agricultural use.

(4) "Maintaining a place of business" means:

(a) any person having or maintaining within this state, directly or by a subsidiary, an office, generation facility, distribution facility, transmission facility, sales office, or other place of business; or

(b) any employee, agent, or other representative operating in this state under the authority of the person or a subsidiary, whether the place of business or employee, agent, or other representative is located in the state permanently or temporarily or whether the person or subsidiary is licensed to do business in this state.

(5) "Nonresidential electric use" means any use or consumption of electricity that is not a residential electric use.

(6) "Person" means an individual, estate, trust, receiver, cooperative association, corporation, limited liability company, firm, partnership, joint venture, syndicate, or other entity, including any gas or electric utility owned or operated by a county, municipality, or other political subdivision of the state.

(7) "Residential electric use" means electricity used or consumed at a dwelling of two or fewer units or electricity for household purposes used or consumed at a building with multiple dwelling units where the electricity is registered by a separate meter for each dwelling unit.

(8) "Self-assessing purchaser" means a purchaser for nonresidential electric use who elects to register with and to pay the tax directly to the department.

(9) "Use" means the exercise by a person of any right or control over electricity incident to the ownership of the electricity, except that it does not include the generation, production, distribution, sale, transmission, or delivery of electricity in the regular course of business or the use of electricity for those purposes.

**NEW SECTION.** **Section 4. Rate of tax -- exception -- exemption.** (1) (a) Except as provided in [section 5] and subsections (1) (b) and (2) of this section, a tax is imposed on all electricity for use or consumption and not for resale in this state at the rate of 0.25 cent per kilowatt hour delivered to the customer in a month. The tax is imposed on the purchaser and must be collected by the distribution services provider.

(b) The kilowatt hour tax referred to in subsection (1)(a) is 0.175 cent per kilowatt hour delivered to the customer in a month by an electric utility that has deferred compliance with Title 69, chapter 8, pursuant to 69-8-201. The tax is imposed on the purchaser and must be collected by the electric utility.

(2) (a) Sales of electricity to customers of a municipal utility described in 69-8-103(5)(b) or to customers whose electricity is delivered on distribution facilities controlled or operated as of May 2, 1997, by a rural electric cooperative organized under the provisions of Title 35, chapter 18, are exempt from the tax imposed by this section.

(b) Sales of electricity to a customer whose supplier of electricity is an entity of the United States government are exempt from the tax imposed by this section.

**NEW SECTION. Section 5. Self-assessing purchaser rate of tax -- exception -- exemption.** (1)

(a) In lieu of the tax imposed in [section 4], a tax is imposed on a self-assessing purchaser at the rate of 5.1%, except as provided in subsections (1)(b) and (2), of the self-assessing purchaser's delivered price for all electricity for use or consumption and not for resale delivered to the self-assessing purchaser in a month.

(b) The tax rate on a self-assessing purchaser who is a customer of an electric utility described in [section 4(1)(b)] is 3.1% of the self-assessing purchaser's delivered price for all electricity for use or consumption and not for resale delivered to the self-assessing purchaser in a month.

(2) (a) Sales of electricity to customers of a municipal utility described in 69-8-103(5)(b) or to customers whose electricity is delivered on distribution facilities controlled or operated as of May 2, 1997, by a rural electric cooperative organized under the provisions of Title 35, chapter 18, are exempt from the tax imposed by this section.

(b) Sales of electricity to customers whose supplier of electricity is an entity of the United States government are exempt from the tax imposed by this section.

**NEW SECTION. Section 6. Separate statement of tax -- no advertising to absorb or refund tax.**

(1) If a person collects a tax in excess of the tax imposed by [section 4], both the tax and the excess tax must be remitted to the department.

(2) The excise tax must be stated separately on the customer's bill or statement.

(3) A person may not advertise, hold out, or state to the public or to any customer that the tax imposed by [sections 1 through 23] will be absorbed or refunded.



**NEW SECTION. Section 7. Multistate exemption.** A customer, upon proof that the customer has paid a tax in another state on the use or consumption of electricity, is allowed a credit against the tax imposed by [sections 1 through 23] if the tax has been paid in another state.

**NEW SECTION. Section 8. Registration of distribution services provider -- requirements -- place of business -- form -- rules.** (1) A person who engages in the business of distribution services provider shall file with the department an application for a certificate of registration.

(2) Each person obligated to file a return under [sections 1 through 23] is required to file an application for a certificate of registration.

(3) Each application for a certificate of registration must be on a form prescribed by the department and must set forth the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information that the department may require. The application must be filed by the owner if the owner is a natural person, by a member or partner if the owner is an association or partnership, or by a person authorized to sign the application if the owner is a corporation.

(4) The department shall adopt rules to provide procedures for application for and provision of a certificate of registration to a person engaged in the business of distribution services provider in this state prior to [the applicability date of this section]. The rules adopted by the department should ensure that each person engaging in the business of distribution services provider in this state prior to [the applicability date of this section] is issued a certificate of registration prior to [the applicability date of this section].

**NEW SECTION. Section 9. Revocation or suspension of certificate of registration -- hearing -- notice -- appeal.** (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any certificate of registration held by a person who fails to comply with the provisions of [sections 1 through 23].

(2) The department shall provide written notice and an opportunity for a hearing on a proposed revocation or suspension. The hearing must be conducted informally and is not subject to the Montana Administrative Procedure Act.

(3) If a certificate of registration is revoked, the department may not issue a new certificate of registration except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections 1 through 23]. The department may require security in an amount reasonably necessary to ensure compliance with [sections 1 through 23] as a condition for the issuance of a

new certificate of registration to the applicant.

(4) A person aggrieved by the department's final decision to revoke a certificate of registration, as provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days following the date on which the department issued its final decision.

(5) A decision of the state tax appeal board may be appealed to the district court.

**NEW SECTION. Section 10. Collection of electricity excise tax.** A distribution services provider maintaining a place of business in the state shall collect the tax imposed under [section 4] from the purchaser, other than a self-assessing purchaser who provides a copy of certification described in [section 12], and pay the tax collected to the department.

**NEW SECTION. Section 11. Election to be self-assessing purchaser -- revocation -- renewal.**  
(1) A purchaser for nonresidential electric use may elect to register with the department as a self-assessing purchaser to pay the tax imposed by [section 5] directly to the department in lieu of paying the tax to the purchaser's distribution services provider.

(2) The election by a purchaser to register as a self-assessing purchaser may not be revoked for at least 12 months after the election is made. A purchaser who revokes the registration as a self-assessing purchaser may not register as a self-assessing purchaser within the succeeding 12 months.

(3) A self-assessing purchaser shall renew the registration every 12 months, or the registration is considered void.

**NEW SECTION. Section 12. Registration of self-assessing purchaser -- requirements -- place of business -- form -- rules -- denial.** (1) A person who elects to be a self-assessing purchaser shall file with the department an application for a certificate of registration.

(2) Each application for a certificate of registration must be on a form prescribed by the department and must set forth the name under which the applicant intends to transact business, the location of the applicant's place or places of business, and other information that the department may require. The application must be filed by the owner if the owner is a natural person, by a member or partner if the owner is an association or partnership, or by a person authorized to sign the application if the owner is a corporation.

(3) The department shall adopt rules to provide procedures for application for and provision of a certificate of registration to a self-assessing purchaser in this state prior to [the applicability date of this

section]. The rules adopted by the department should ensure that each self-assessing purchaser in this state prior to [the applicability date of this section] is issued a certificate of registration prior to [the applicability date of this section].

(4) The department may deny a certificate of registration to any applicant if the owner, any partner, any manager or member of a limited liability company, or a corporate officer of the applicant is or has been the owner, a partner, a manager or member of a limited liability company, or a corporate officer of another self-assessing purchaser who is in default for taxes due under [sections 1 through 23].

**NEW SECTION. Section 13. Revocation or suspension of certificate of registration of self-assessing purchaser -- hearing -- notice -- appeal.** (1) Subject to the provisions of subsection (2), the department may, for reasonable cause, revoke or suspend any certificate of registration held by a self-assessing purchaser who fails to comply with the provisions of [sections 1 through 23].

(2) The department shall provide written notice and an opportunity for a hearing on a proposed revocation or suspension. The hearing must be conducted informally and is not subject to the Montana Administrative Procedure Act.

(3) If a certificate of registration is revoked, the department may not issue a new certificate of registration except upon application accompanied by reasonable evidence of the intention of the applicant to comply with the provisions of [sections 1 through 23]. The department may require security in an amount reasonably necessary to ensure compliance with [sections 1 through 23] as a condition for the issuance of a new certificate of registration to the applicant.

(4) self-assessing purchaser aggrieved by the department's final decision to revoke a certificate of registration, as provided in subsection (1), may appeal the decision to the state tax appeal board within 30 days following the date on which the department issued its final decision.

(5) A decision of the state tax appeal board may be appealed to the district court.

**NEW SECTION. Section 14. Returns -- payment -- authority of department.** (1) On or before the 30th day of the month following the end of the calendar quarter in which the tax imposed by [sections 1 through 23] is payable, a return, on a form provided by the department, and payment of the tax for the preceding calendar quarter must be filed with the department.

(a) Each person engaged in delivering electricity in this state that is subject to the tax under [sections 1 through 23] shall file a return.

(b) Each self-assessing purchaser subject to the tax who has not paid the tax to a distribution services provider shall file a return.

(2) (a) A person required to collect and pay to the department the tax imposed by [sections 1 through 23], including a self-assessing purchaser, shall keep records, render statements, make returns, and comply with the provisions of [sections 1 through 23] and the rules prescribed by the department. Each return or statement must include the information required by the rules of the department.

(b) For the purpose of determining compliance with the provisions of [sections 1 through 23], the department is authorized to examine or cause to be examined any books, papers, records, or memorandums relevant to making a determination of the amount of tax due, whether the books, papers, records, or memorandums are the property of or in the possession of the person filing the return or another person. In determining compliance, the department may use statistical sampling and other sampling techniques consistent with generally accepted auditing standards. The department may also:

- (i) require the attendance of a person having knowledge or information relevant to a return;
- (ii) compel the production of books, papers, records, or memorandums by the person required to attend;
- (iii) implement the provisions of 15-1-703 if the department determines that the collection of the tax is or may be jeopardized because of delay;
- (iv) take testimony on matters material to the determination; and
- (v) administer oaths or affirmations.

(3) Pursuant to rules established by the department, returns may be computer-generated and electronically filed.

**NEW SECTION. Section 15. Return -- additional information provided by self-assessing purchaser.** (1) On the return required by [section 14], a self-assessing purchaser shall include the following:

- (a) the delivered price paid by the self-assessing purchaser for electricity during the tax period, including budget plan and other purchaser-owned amounts applied during the tax period in payment of charges included in the delivered price, upon the basis of which the tax is imposed;
  - (b) the amount of tax, computed on the amount determined in subsection (1)(a) times the appropriate tax rate specified in [section 5(1)(a) or (1)(b)]; and
  - (c) other information required by the department.
- (2) In making the return, the self-assessing purchaser may use any reasonable method to derive

reportable delivered price from the self-assessing purchaser's records.

**NEW SECTION. Section 16. Examination of return -- adjustments -- delivery of notices and demands.** (1) If the department determines that the amount of tax due is different from the amount reported, the amount of tax computed on the basis of the examination conducted pursuant to [section 14] constitutes the tax to be paid.

(2) If the tax due exceeds the amount of tax reported as due on the taxpayer's return, the excess must be paid to the department within 30 days after notice of the amount and demand for payment is mailed or delivered to the person making the return unless the taxpayer files a timely objection as provided in 15-1-211. If the amount of the tax found due by the department is less than that reported as due on the return and has been paid, the excess must be credited or, if no tax liability exists or is likely to exist, refunded to the person making the return.

(3) The notice and demand provided for in this section must contain a statement of the computation of the tax and interest and must be:

(a) sent by mail to the taxpayer at the address given in the taxpayer's return, if any, or to the taxpayer's last-known address; or

(b) served personally upon the taxpayer.

(4) A taxpayer filing an objection to the demand for payment is subject to and governed by the uniform tax review procedure provided in 15-1-211.

**NEW SECTION. Section 17. Penalties and interest for violation.** (1) (a) If a person, without purposely or knowingly violating any requirement imposed by [sections 1 through 23], fails to file a return and pay the tax on or before the due date, there must be imposed a penalty of 5% of the balance of debt unpaid with respect to the return as of the date due, but the penalty for failure to file a return by its due date may not be less than \$20. The department may abate the penalty if the person establishes that the failure to file on time was due to reasonable cause and was not due to neglect by the taxpayer.

(b) If a person, without purposely or knowingly violating any requirement imposed by [sections 1 through 23], fails to pay a debt on or before the due date, there must be added to the debt a penalty of 10% of the debt, but not less than \$20, and interest must accrue on the debt at a rate of 1% for each month or fraction of a month for the entire period that the debt remains unpaid. The department may abate the penalty if the person establishes that the failure to pay was due to reasonable cause and was not due to neglect by the

taxpayer. The department shall adopt rules that define reasonable cause.

(2) If a person purposely or knowingly violates any requirement imposed by [sections 1 through 23] by failing to file a return or to pay a debt, there must be added to the debt an additional amount equal to 25% of the debt, but not less than \$50, and interest at 1% for each month or fraction of a month during which the debt remains unpaid.

**NEW SECTION. Section 18. Authority to collect delinquent taxes.** (1) (a) The department shall collect taxes that are delinquent as determined under [sections 1 through 23].

(b) If a tax imposed by [sections 1 through 23] or any portion of the tax is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7.

(2) In addition to any other remedy, in order to collect delinquent taxes after the time for appeal has expired, the department may direct the offset of tax refunds or other funds due the taxpayer from the state, except wages subject to the provisions of 25-13-614 and retirement benefits.

(3) As provided in 15-1-705, the taxpayer has the right to a review on the tax liability prior to any offset by the department.

(4) The department may file a claim for state funds on behalf of the taxpayer if a claim is required before funds are available for offset.

**NEW SECTION. Section 19. Interest on deficiency -- penalty.** (1) Interest accrues on unpaid or delinquent taxes at the rate of 1% for each month or fraction of a month during which the taxes remain unpaid. The interest must be computed from the date on which the return and tax were originally due.

(2) If the payment of a tax deficiency is not made within 60 days after it is due and payable and if the deficiency is due to negligence on the part of the taxpayer but without fraud, there must be added to the amount of the deficiency a penalty of 10% of the tax, but in no case less than \$25.

**NEW SECTION. Section 20. Limitations.** (1) Except in the case of a person who purposely or knowingly, as those terms are defined in 45-2-101, files a false or fraudulent return violating the provisions of [sections 1 through 23], a deficiency may not be assessed or collected with respect to a month or quarter for which a return is filed unless the notice of additional tax proposed to be assessed is mailed to or personally served upon the taxpayer within 5 years from the date on which the return was filed. For purposes of this section, a return filed before the last day prescribed for filing is considered to be filed on the last day.

(2) If, before the expiration of the 5-year period prescribed in subsection (1) for assessment of the tax, the taxpayer consents in writing to an assessment after expiration of the 5-year period, a deficiency may be assessed at any time prior to the expiration of the period consented to.

(3) The limitations prescribed for giving notice of a proposed assessment of additional tax under subsection (1) do not apply if:

(a) the taxpayer has by written agreement suspended the federal statute of limitations for collection of federal tax, provided that the suspension of the limitation set forth in this section lasts:

(i) only as long as the suspension of the federal statute of limitations; or

(ii) until 1 year after any changes in the person's federal tax have become final or any amended federal return is filed as a result of a suspension of the federal statute, whichever occurs later; or

(b) a taxpayer has failed to file a report of changes in federal taxable income or an amended return as required by 15-30-146 or 15-31-506 until 5 years after the federal changes become final or the amended federal return was filed, whichever the case may be.

**NEW SECTION. Section 21. Refunds -- interest -- limitations.** (1) A claim for a refund or credit as a result of overpayment of taxes collected under [sections 1 through 23] must be filed within 5 years of the date on which the return was due, without regard to any extension of time for filing.

(2) (a) Interest on an overpayment must be paid or credited at the same rate as the interest rate charged on delinquent taxes under [section 19(1)].

(b) Except as provided in subsection (2)(c), interest must be paid from the date on which the return was due or the date of overpayment, whichever is later. Interest does not accrue during any period in which the processing of a claim is delayed more than 30 days because the taxpayer has not furnished necessary information.

(c) The department is not required to pay interest if:

(i) the overpayment is refunded or credited within 6 months of the date on which a claim was filed; or

(ii) the amount of overpayment and interest does not exceed \$1.

**NEW SECTION. Section 22. Administration -- rules.** The department shall:

(1) administer and enforce the provisions of [sections 1 through 23];

(2) cause to be prepared and distributed forms and information that may be necessary to administer the provisions of [sections 1 through 23]; and

(3) adopt rules that may be necessary or appropriate to administer and enforce the provisions of [sections 1 through 23].

**NEW SECTION. Section 23. Account for electric utility property tax replacement revenue. (1)**

There is an account within the state special revenue fund.

(2) All money collected under [sections 1 through 23] and 15-51-103(1)(b) must be paid by the department into the account.

(3) There must be retained in the account the amounts necessary under [sections 1 through 23] and 15-51-103(1)(b) to repay overpayments, pay any erroneous receipts illegally assessed or collected or that are excessive in amount, and pay any other refunds otherwise required.

**NEW SECTION. Section 24. Distribution of property tax replacement revenue -- statutory appropriation. (1)** Tax revenue deposited in the account established in [section 23] must be distributed as provided in this section.

(2) On or before June 1, 2000, the department shall determine a reimbursement ratio associated with reducing the tax rate on the property of electric power companies taxed under 15-6-141, as that section read on December 31, 1998, and provide that information to each county treasurer. The reimbursement ratio must be determined for each taxing jurisdiction that levied mills on the taxable value of the property of electric power companies as that property was taxed under 15-6-141 in tax year 1998.

(3) Except as provided in subsection (4), the reimbursement ratio for each taxing jurisdiction to be used as the basis for the reimbursement amount determined in subsection (5) is calculated using the formula  $RR = ((TV1 \times ML1) + (TV2 \times ML2) + (TV3 \times ML3)/3)/(ST1 + ST2 + ST3)/3$ , where:

(a) RR is the reimbursement ratio;

(b) TV1 is the tax year 1996 taxable value of electric utility property in the taxing jurisdiction, and ML1 is the tax year 1996 mill levy in the taxing jurisdiction applied to electric utility property;

(c) TV2 is the tax year 1997 taxable value of electric utility property in the taxing jurisdiction, and ML2 is the tax year 1997 mill levy in the taxing jurisdiction applied to electric utility property;

(d) TV3 is the tax year 1998 taxable value of electric utility property in the taxing jurisdiction, and ML3 is the tax year 1998 mill levy in the taxing jurisdiction applied to electric utility property;

(e) ST1 is the sum of  $(TV1 \times ML1)$  for all taxing jurisdictions in the state for tax year 1996;

(f) ST2 is the sum of  $(TV2 \times ML2)$  for all taxing jurisdictions in the state for tax year 1997; and



(g) ST3 is the sum of (TV3 x ML3) for all taxing jurisdictions in the state for tax year 1998.

(4) In calculating the reimbursement ratio under subsection (3), the department shall exclude the taxable value of property that is described in subsection (5).

(5) (a) If the tax year 2000 assessed value of a generating facility in a taxing jurisdiction that was classified as class nine property under 15-6-141 in tax year 1998 is greater than the assessed value of the generating facility in 1998, then the taxable value of the generating facility in tax year 2000 in the taxing jurisdiction must be subtracted from the taxable value figures in that taxing jurisdiction for tax years 1996, 1997, and 1998 used to calculate the reimbursement ratio in subsection (3). The provisions of this subsection (5) apply regardless of whether the generating facility is classified under 15-6-141 or under another property class in Title 15, chapter 6, part 1.

(b) For the purposes of this subsection (5), "generating facility" means any combinations of a physically connected generator or generators, associated prime movers, and other associated property that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water.

(6) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalty collected under [sections 1 through 23] and 15-51-103(1)(b). The tax year reimbursement amount for each taxing jurisdiction in the state is the product of multiplying the reimbursement ratio determined for the taxing jurisdiction in subsection (3) by the amount available in the account for property tax replacement revenue for redistribution for the calendar quarter.

(7) Upon receipt of the reimbursement from the department, the county treasurer shall distribute the reimbursement as calculated by the department to each taxing jurisdiction.

(8) For the purposes of this section, "taxing jurisdiction" means a jurisdiction levying mills against electric utility property described in 15-6-141, as that section read on December 31, 1998, and includes but is not limited to a county, city, school district, tax increment financing district, special district, or miscellaneous taxing district and the state of Montana.

(9) Each local government taxing jurisdiction receiving reimbursements shall consider the amount of reimbursement that will be received and lower the mill levy otherwise necessary to fund the budget by the amount that would otherwise have to be raised by the mill levy.

(10) A local government taxing jurisdiction that ceases to exist after [the effective date of this section] will no longer be considered for revenue loss or reimbursement purposes. A local government taxing

jurisdiction that is created after January 1, 2000, will not be considered for revenue loss or reimbursement purposes. If a local government taxing jurisdiction that existed prior to January 2000 is split between two or more taxing jurisdictions or is annexed to or is consolidated with another taxing jurisdiction, the department shall determine how much of the revenue loss and reimbursement is attributed to the new jurisdictions.

(11) The amounts necessary for the administration of this section are statutorily appropriated, as provided in 17-7-502, from the account for property tax replacement revenue to reimburse eligible taxing jurisdictions for the reduction in the tax rate on electric utility property classified under 15-6-141 prior to [the effective date of this section].

**Section 25.** Section 7-1-2111, MCA, is amended to read:

**"7-1-2111. Classification of counties.** (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the counties of this state must be classified according to the taxable valuation of the property in the counties upon which the tax levy is made, except for vehicles subject to taxation under 61-3-504, as follows:

- (a) first class--all counties having a taxable valuation of \$50 million or more;
- (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50 million;
- (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;
- (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;
- (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;
- (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;
- (g) seventh class--all counties having a taxable valuation of less than \$5 million.

(2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county as of the time of determination plus:

- (a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less;
- (b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;
- (c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks

having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

(d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole trailers, and semitrailers with a declared weight of less than 26,000 pounds;

(e) the value provided by the department of revenue under 15-36-324(13); ~~and~~

(f) 50% of the taxable value of the county on December 31, 1999, attributable to electric utility property under 15-6-141; and

~~(f)(g)~~ 6% of the taxable value of the county on January 1 of each tax year."

**Section 26.** Section 7-7-107, MCA, is amended to read:

**"7-7-107. Limitation on amount of bonds for city-county consolidated units.** (1) Except as provided in 7-7-108, ~~no~~ a city-county consolidated local government may not issue bonds for any purpose ~~which that~~, with all outstanding indebtedness, ~~may exceed~~ exceed 39% of the taxable value of the property ~~therein in the local government~~ subject to taxation, as ascertained by the last assessment for state and county taxes, plus an additional 50% of the taxable value of electric utility property under 15-6-141 within the local government for tax year 1999, multiplied by 39%.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness."

**Section 27.** Section 7-7-2101, MCA, is amended to read:

**"7-7-2101. Limitation on amount of county indebtedness.** (1) A county may not become indebted in any manner or for any purpose in an amount, including existing indebtedness, in the aggregate exceeding 23% of the total of the taxable value of the property in the county subject to taxation; plus;

(a) the value provided by the department of revenue in 15-36-324(13), as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness, plus;

(b) an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 23%; and

~~(c) for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995, and for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of~~

class eight property within the county for tax year 1995, ~~in each case of class eight property~~, multiplied by 23%.

(2) A county may not incur indebtedness or liability for any single purpose to an amount exceeding \$500,000 without the approval of a majority of the electors of the county voting at an election to be provided by law, except as provided in 7-7-2402, 7-21-3413, and 7-21-3414.

(3) This section does not apply to the acquisition of conservation easements as set forth in Title 76, chapter 6."

**Section 28.** Section 7-7-2203, MCA, is amended to read:

**"7-7-2203. Limitation on amount of bonded indebtedness.** (1) Except as provided in subsections (2) ~~through (4)~~ and (3), a county may not issue general obligation bonds for any purpose that, with all outstanding bonds and warrants except emergency bonds, will exceed 11.25% of the total of the taxable value of the property in the county; plus:

(a) the value provided by the department of revenue under 15-36-324(13), to be ascertained by the last assessment for state and county taxes prior to the proposed issuance of bonds, plus;

(b) for general obligation bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, for general obligation bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995, and for general obligation bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the county for tax year 1995, in each case of class eight property, multiplied by 11.25%; and

(c) an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 11.25%.

~~(2) In addition to the bonds allowed by subsection (1), a county may issue bonds that, with all outstanding bonds and warrants, will not exceed 27.75% of the total of the taxable value of the property in the county subject to taxation, plus the value provided by the department of revenue under 15-36-324(13), when necessary to do so, to be ascertained by the last assessment for state and county taxes, plus, for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the county for tax year 1995, and for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the county for tax year 1995.~~

~~(3)~~(2) In addition to the bonds allowed by ~~subsections~~ subsection (1) ~~and (2)~~, a county may issue

bonds for the construction or improvement of a ~~jail~~ detention center that will not exceed 12.5% of the taxable value of the property in the county subject to taxation, plus the adjustments permitted by ~~7-7-210+~~ subsection (1).

~~(4)~~(3) The limitation in subsection (1) does not apply to refunding bonds issued for the purpose of paying or retiring county bonds lawfully issued prior to January 1, 1932, or to bonds issued for the repayment of tax protests lost by the county."

**Section 29.** Section 7-7-4201, MCA, is amended to read:

**"7-7-4201. Limitation on amount of bonded indebtedness.** (1) Except as otherwise provided, a city or town may not issue bonds or incur other indebtedness for any purpose in an amount that with all outstanding and unpaid indebtedness will exceed 28% of the taxable value of the property in the city or town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus;

~~(a) for bonds to be issued or other indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the city or town for tax year 1995, for bonds to be issued or other indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax year 1995, and for bonds to be issued or other indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the city or town for tax year 1995, in each case of class eight property, multiplied by 28%; and~~

(b) an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 28%.

(2) The issuing of bonds for the purpose of funding or refunding outstanding warrants or bonds is not the incurring of a new or additional indebtedness but is merely the changing of the evidence of outstanding indebtedness.

(3) The limitation in subsection (1) does not apply to bonds issued for the repayment of tax protests lost by the city or town."

**Section 30.** Section 7-7-4202, MCA, is amended to read:

**"7-7-4202. Special provisions relating to water and sewer systems.** (1) Notwithstanding the provisions of 7-7-4201, for the purpose of constructing a sewer system, procuring a water supply, or constructing or acquiring a water system for a city or town that owns and controls the water supply and water system and devotes the revenue from the water supply and water system to the payment of the debt, a city or

town may incur an additional indebtedness by borrowing money or issuing bonds.

(2) The additional total indebtedness that may be incurred by borrowing money or issuing bonds for the construction of a sewer system, for the procurement of a water supply, or for both of the purposes, including all indebtedness that is contracted and that is unpaid or outstanding, may not in the aggregate exceed 55% ~~over and above~~ of the 28% debt limitation referred to in 7-7-4201; of the taxable value of the property in the city or town subject to taxation, to be ascertained by the last assessment for state and county taxes, plus;

~~(a) for indebtedness to be incurred during fiscal year 1997, an additional 11% of the taxable value of class eight property within the city or town for tax year 1995, for indebtedness to be incurred during fiscal year 1998, an additional 22% of the taxable value of class eight property within the city or town for tax year 1995, and for indebtedness to be incurred during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the city or town for tax year 1995, in each case of class eight property, multiplied by 55%; and~~

(b) an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 55%."

**Section 31.** Section 7-14-2524, MCA, is amended to read:

**"7-14-2524. Limitation on amount of bonds issued -- excess void.** (1) Except as otherwise provided in 7-7-2203, 7-7-2204, and this section, a county may not issue bonds that, with all outstanding bonds and warrants except emergency bonds, will exceed 11.25% of the total of the taxable value of the property in the county; plus;

(a) the value provided by the department of revenue under 15-36-324(13). The taxable property and the amount of taxes levied on new production, production from horizontally completed wells, and incremental production must be ascertained by the last assessment for state and county taxes prior to the issuance of the bonds.

(b) an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 11.25%.

(2) A county may issue bonds that, with all outstanding bonds and warrants, will exceed 11.25% but will not exceed 22.5% of the total of the taxable value of the property; plus an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by the amount that exceeds 11.25% but does not exceed 22.5%, plus the value provided by the department of revenue under

15-36-324(13) when necessary for the purpose of replacing, rebuilding, or repairing county buildings, bridges, or highways that have been destroyed or damaged by an act of God or by a disaster, catastrophe, or accident.

(3) The value of the bonds issued and all other outstanding indebtedness of the county may not exceed 22.5% of the total of the taxable value of the property within the county, ~~plus the value provided by the department of revenue under 15-36-324(13), as ascertained by the last preceding general assessment as~~ adjusted in this section."

**Section 32.** Section 7-14-2525, MCA, is amended to read:

**"7-14-2525. Refunding agreements and refunding bonds authorized.** (1) Whenever the total indebtedness of a county exceeds 22.5% of the total of the taxable value of the property in the county, ~~plus the value provided by the department of revenue under 15-36-324(13)~~ as adjusted in 7-14-2524, and the board determines that the county is unable to pay the indebtedness in full, the board may:

(a) negotiate with the bondholders for an agreement under which the bondholders agree to accept less than the full amount of the bonds and the accrued unpaid interest in satisfaction of the bonds;

(b) enter into the agreement;

(c) issue refunding bonds for the amount agreed upon.

(2) These bonds may be issued in more than one series, and each series may be either amortization or serial bonds.

(3) The plan agreed upon between the board and the bondholders must be embodied in full in the resolution providing for the issuance of the bonds."

**Section 33.** Section 7-16-2327, MCA, is amended to read:

**"7-16-2327. Indebtedness for park purposes.** (1) Subject to the provisions of subsection (2), a county park board, in addition to powers and duties now given under law, may contract an indebtedness in behalf of a county, upon the credit of the county, in order to carry out its powers and duties.

(2) (a) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 13% of the total of the taxable value of the taxable property in the county, as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness, plus:

(i) ~~the value provided by the department of revenue under 15-36-324(13), as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness; and~~

(ii) an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 13%.

(b) Money may not be borrowed on bonds issued for the purchase of lands and improving the land for any purpose until the proposition has been submitted to the vote of those qualified under the provisions of the state constitution to vote at the election in the affected county and a majority vote is cast in favor of the bonds."

**Section 34.** Section 7-16-4104, MCA, is amended to read:

**"7-16-4104. Authorization for municipal indebtedness for various cultural, social, and recreational purposes.** (1) A city or town council or commission may contract an indebtedness on behalf of the city or town, upon the credit of the city or town, by borrowing money or issuing bonds:

- (a) for the purpose of purchasing and improving lands for public parks and grounds;
- (b) for procuring by purchase, construction, or otherwise swimming pool facilities, athletic fields, skating rinks, playgrounds, museums, a golf course, a site and building for a civic center, a youth center, or any combination of these facilities; and
- (c) for furnishing, equipping, repairing, or rehabilitating a swimming pool facility, athletic field, skating rink, playground, museum, golf course, civic center, or youth center.

(2) The total amount of indebtedness authorized to be contracted in any form, including the then-existing indebtedness, may not at any time exceed 16.5% of the taxable value of the taxable property of the city or town, as ascertained by the last assessment for state and county taxes previous to the incurring of the indebtedness, plus an additional 50% of the taxable value of electric utility property under 15-6-141 within the county for tax year 1999, multiplied by 16.5%. Money may not be borrowed for any purpose on bonds issued for the purchase of lands and improving the land until the proposition has been submitted to the vote of the qualified electors of the city or town and a majority vote is cast in favor of the proposition."

**Section 35.** Section 15-6-137, MCA, is amended to read:

**"15-6-137. Class seven property -- description -- taxable percentage.** (1) Class seven property includes:

- (a) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;
- (b) all property owned by cooperative rural electrical and cooperative rural telephone associations that



serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town, ~~except rural electric cooperative properties described in 15-6-141(1)(a);~~

(c) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property.

(2) To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.

(3) Class seven property is taxed at ~~8%~~ 6% of its market value."

**Section 36.** Section 15-6-141, MCA, is amended to read:

**"15-6-141. Class nine property -- description -- taxable percentage.** (1) Class nine property includes:

~~(a) centrally assessed electric power companies' allocations, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, allocations of properties constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives. However, rural electric cooperatives' property used for the sole purpose of serving customers representing less than 95% of the electric consumers located within the incorporated limits of a city or town of more than 3,500 persons in which a centrally assessed electric power company also owns property is included. For purposes of this subsection (1)(a), "property used for the sole purpose" does not include a headquarters, office, shop, or other similar facility;~~

~~———— (b)(a) allocations for centrally assessed natural gas companies having a major distribution system in this state; and~~

(b) the apportioned allocations for a centrally assessed natural gas company shared in common with a centrally assessed electric power company; and

(c) centrally assessed companies' allocations except:

~~(i) electric power and natural gas companies' property;~~

~~———— (ii)(i) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;~~

~~(iii)(ii) property owned by organizations providing telephone communications to rural areas and classified in class seven;~~

~~(iv)(iii)~~ railroad transportation property included in class twelve; ~~and~~

~~(v)(iv)~~ airline transportation property included in class twelve; and

(v) electric power company property included in class thirteen.

(2) Class nine property is taxed at 12% of market value."

**NEW SECTION. Section 37. Class thirteen property.** (1) Except as provided in subsection (2), class thirteen property includes:

(a) all electric generation facilities, including noncentrally assessed electric generation facilities owned or operated by any electrical energy producer;

(b) allocations of centrally assessed electric power companies, including, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electric energy, allocations of properties constructed, owned, or operated by a public agency created by congress to transmit or distribute electric energy produced at privately owned generating facilities, not including rural electric cooperatives; and

(c) the apportioned allocations for a centrally assessed electric company shared in common with a centrally assessed natural gas company.

(2) Class thirteen property does not include:

(a) property owned by cooperative rural electric associations and classified in class five;

(b) property owned by organizations providing electricity and classified in class seven; and

(3) property of a qualifying small power production facility, as that term is defined in 16 U.S.C. 796(17), that is owned and operated by a person not primarily engaged in the generation or sale of electricity other than electric power from a small power production facility under the provisions of Title 69, chapter 3, part 6, and classified in class four and class eight.

(4) For the purposes of this section, "electric generation facilities" means any combinations of a physically connected generator or generators, associated prime movers, and other associated property, including appurtenant land and improvements and personal property, that are normally operated together to produce electric power. The term includes but is not limited to generating facilities that produce electricity from coal-fired steam turbines, oil or gas turbines, or turbine generators that are driven by falling water. The term does not include electric generation facilities used for noncommercial purposes or exclusively for agricultural purposes.

(5) Class thirteen property is taxed at 6% of its market value.

**Section 38.** Section 15-32-107, MCA, is amended to read:

**"15-32-107. Loans by utilities and financial institutions -- tax credit for interest differential for loans made prior to July 1, 1995.** (1) Except as provided in subsection (4), a public utility or a financial institution that lent money or made qualifying installations under this section as it read prior to July 1, 1995, may compute the difference between interest it actually receives on the transactions and the interest that would have been received at the prevailing average interest rate for home improvement loans, as prescribed in rules made by the public service commission. The utility may apply the difference so computed as a credit against its tax liability for the electrical energy producer's license tax under 15-51-101(1) or for the corporation license tax under chapter 31, part 1. The public service commission shall regulate rates in ~~such~~ a manner that a utility making loans under this section may not make a profit as the result of this section. The financial institution may apply the difference so computed as a credit against its tax liability for the corporation license tax under chapter 31, part 1.

(2) A utility may not claim a tax credit under this section exceeding \$750,000 in any tax year. A financial institution may not claim a tax credit under this section exceeding \$2,000 in any tax year.

(3) The public service commission may make rules to implement this section as it applies to public utilities only.

(4) A public utility whose purchases of or investments in conservation are placed in the rate base as provided in Title 69, chapter 3, part 7, may not receive a tax credit under subsection (1)."

**Section 39.** Section 15-51-101, MCA, is amended to read:

**"15-51-101. Rate of tax -- electrical energy producers -- additional tax -- exemption.** (1) In addition to the license tax now provided by law, each person or other organization ~~now~~ engaged in the generation, manufacture, or production of electricity and electrical energy in the state of Montana, either through waterpower or by any other means, for barter, sale, or exchange (and ~~hereinafter~~ referred to as the "producer") shall on or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30, and December 31, render a statement to the department of revenue showing the gross amount, except for actual and necessary plant use, required to produce the energy of electricity and electrical energy produced, manufactured, or generated during the preceding calendar quarter without any deduction and shall pay a license tax ~~thereon~~ on the production in the sum of ~~\$-0002~~ 0.02 cent per kilowatt hour on all ~~such~~ electricity and electrical energy generated, manufactured, or produced, measured at the place of production and as shown on the statement required ~~in the manner and within the time hereinafter provided~~

by this chapter.

(2) (a) Except as provided in subsection (2)(b), an additional license tax is imposed in an amount equal to 0.06 cent per kilowatt hour produced as shown on the statement required by this chapter.

(b) Electrical energy produced by a qualifying small power production facility pursuant to a contract for the sale of electricity to a public utility or to a rural electric cooperative under the provisions of Title 69, chapter 3, part 6, is exempt from the tax imposed in subsection (2)(a). The exemption allowed by this subsection (2)(b) applies only to electricity sold under the terms of the contract or contracts in effect prior to [the effective date of this section]."

**Section 40.** Section 15-51-102, MCA, is amended to read:

**"15-51-102. Payment of tax -- ~~not to tax may be set out on customers' bills.~~** (1) The license tax shall ~~must~~ be remitted with the statement and paid on or before the 30th day of the month after each calendar quarter.

(2) ~~No A bill; or statement; or account rendered or given any customer by any organization affected by the provisions of this chapter shall set out or contain as a separate item any amount on account or by reason of the license tax imposed by this chapter rendered to a customer may itemize the tax imposed by 15-51-101.~~"

**Section 41.** Section 15-51-103, MCA, is amended to read:

**"15-51-103. Disposition of revenue -- interest on delinquency.** ~~The department of revenue shall, in accordance with the provisions of 15-1-501, promptly remit the collected taxes to the state treasurer.~~ (1) For each calendar quarter, the department shall determine the amount of tax, late payment interest, and penalty collected under this chapter. The taxes must be distributed as follows:

(a) The amount equal to 100% of the tax imposed under 15-51-101(1), including late payment interest and penalty, collected under this chapter must be deposited, in accordance with 15-1-501, in the state general fund.

(b) The amount equal to 100% of the tax imposed under 15-51-101(2), including late payment interest and penalty, collected under this chapter must be deposited in the account created in [section 23] for distribution as provided in [section 24].

(2) Taxes not paid on the due date are delinquent, and a penalty of 10% plus interest at the rate of 1% ~~per a~~ month or fraction of a month computed on the total of tax and penalty must be charged."

**Section 42.** Section 17-7-502, MCA, is amended to read:

**"17-7-502. (Temporary) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.**

**(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:**

**(a) The law containing the statutory authority must be listed in subsection (3).**

**(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.**

**(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; [section 24]; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 20-8-107; 20-8-111; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-131; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-161; 85-20-402; 87-1-513; 90-3-301; 90-4-215; 90-6-331; and 90-9-306.**

**(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; pursuant to sec. 7(2), Ch. 29, L. 1995, the inclusion of 15-30-195 terminates July 1, 2001; pursuant to sec. 5, Ch. 461, L. 1997, the inclusion of 77-1-131 terminates October 1, 2003; and pursuant to secs. 13, 16(1), Ch. 549, L. 1997, the inclusion of 90-3-301 terminates July 1, 1999.)**

**17-7-502. (Effective July 1, 2008) Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by**

a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; [section 24]; 15-23-706; 15-30-195; 15-31-702; 15-36-324; 15-36-325; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; [16-1-406;] 16-1-411; 16-11-308; 17-3-106; 17-3-212; 17-3-222; 17-5-404; 17-5-804; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-205; 19-19-305; 19-19-506; 20-8-107; 20-9-361; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 50-5-232; 50-40-206; 53-6-150; 53-6-703; 53-24-206; 60-2-220; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-103; 80-2-222; 80-4-416; 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 87-1-513; 90-4-215; 90-6-331; 90-7-220; 90-7-221; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 68(2), Ch. 422, L. 1997, this version becomes effective July 1, 2008.)"

Section 43. Section 20-9-406, MCA, is amended to read:

"20-9-406. Limitations on amount of bond issue. (1) (a) Except as provided in subsection ~~(1)(c)~~ (1)(d), the maximum amount for which an elementary district or a high school district may become indebted by the issuance of bonds, including all indebtedness represented by outstanding

bonds of previous issues and registered warrants, is 45% of the taxable value of the property subject to taxation, to be ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, plus;

~~(i) for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the district for tax year 1995, and for bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for tax year 1995, in each case of class eight property, multiplied by 45%; and~~

(ii) an additional 50% of the taxable value of electric utility property under 15-6-141 within the district for tax year 1999, multiplied by 45%.

(b) Except as provided in subsection ~~(1)(c)~~ (1)(d), the maximum amount for which a K-12 school district, as formed pursuant to 20-6-701, may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is up to 90% of the taxable value of the property subject to taxation, to be ascertained by the last-completed assessment for state, county, and school taxes previous to the incurring of the indebtedness, plus;

~~(i) for bonds to be issued during fiscal year 1997, an additional 11% of the taxable value of class eight property within the district for tax year 1995, for bonds to be issued during fiscal year 1998, an additional 22% of the taxable value of class eight property within the district for tax year 1995, and for bonds to be issued during fiscal years 1999 through 2008, an additional 33% of the taxable value of class eight property within the district for tax year 1995, in each case of class eight property, multiplied by 90%; and~~

(ii) an additional 50% of the taxable value of electric utility property under 15-6-141 within the district for tax year 1999, multiplied by 90%.

(c) The total indebtedness of the high school district with an attached elementary district must be limited to the sum of 45% of the taxable value of the property for elementary school program purposes and 45% of the taxable value of the property for high school program purposes, adjusted as provided in this section.

~~(c)(d)~~ (i) The maximum amount for which an elementary district or a high school district with a district mill value per elementary ANB or per high school ANB that is less than the corresponding

statewide mill value per elementary ANB or per high school ANB may become indebted by the issuance of bonds, including all indebtedness represented by outstanding bonds of previous issues and registered warrants, is 45% of the corresponding statewide mill value per ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may become indebted is 45% of the sum of the statewide mill value per elementary ANB times 1,000 times the elementary ANB of the district and the statewide mill value per high school ANB times 1,000 times the high school ANB of the district.

(ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded indebtedness under this subsection ~~(1)(c)~~ (1)(d), a district may include the ANB of the district plus the number of students residing within the district for which the district or county pays tuition for attendance at a school in an adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual agreement.

(2) The maximum amounts determined in subsection (1), however, may not pertain to indebtedness imposed by special improvement district obligations or assessments against the school district or to bonds issued for the repayment of tax protests lost by the district. All bonds issued in excess of the amount are void, except as provided in this section.

(3) When the total indebtedness of a school district has reached the limitations prescribed in this section, the school district may pay all reasonable and necessary expenses of the school district on a cash basis in accordance with the financial administration provisions of this chapter.

(4) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the refunding bond issue is decreased accordingly."

**NEW SECTION.** Section 44. Codification instruction. (1) [Sections 1 through 23] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 23].

(2) [Section 24] is intended to be codified as an integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 24].

(3) [Section 37] is intended to be codified as an integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to [section 37].



**NEW SECTION.** Section 45. Coordination instructions. (1) If [LC 539] is approved by the electorate and if [this act] is passed and approved, then [sections 4 and 5 of this act] are void.

(2) If [LC 542] is approved by the electorate and if [this act] is passed and approved, then [section 39 of this act], amending 15-51-101, is void.

**NEW SECTION.** Section 46. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

**NEW SECTION.** Section 47. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

**NEW SECTION.** Section 48. Effective dates -- applicability. (1) Except as provided in subsections (2) and (3), [this act] is effective January 1, 2000, and applies to tax years beginning after December 31, 1999.

(2) For the purposes of promulgating administrative rules under [section 22], [section 22 and this section] are effective on passage and approval.

(3) [Sections 4, 5, and 39] are effective upon the occurrence of the contingency provided for in [section 49(1)].

**NEW SECTION.** Section 49. Contingent voidness. (1) If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution, is declared invalid, then [sections 4, 5, and 39] are effective January 1 of the year following the year in which Constitutional Initiative No. 75 is declared invalid.

(2) If [LC 539] is submitted to and is not approved by the electorate, then [this act] is void.

- END -

# FISCAL NOTE

Bill #: HB0174

Title: Generally revise taxation of electric utilities

Primary Sponsor: Chase Hibbard

Status: As introduced

Sponsor signature

Date

Dave Lewis, Budget Director

Date

## Fiscal Summary

|                                            | <u>FY2000<br/>Difference</u> | <u>FY2001<br/>Difference</u> |
|--------------------------------------------|------------------------------|------------------------------|
| <b>Expenditures:</b>                       |                              |                              |
| General Fund                               | \$41,813                     | \$909,277                    |
| <b>Revenue:</b>                            |                              |                              |
| General Fund                               | 5,895,234                    | (2,208,452)                  |
| State Special Revenue                      | 372,331                      | (139,481)                    |
| <b>Net Impact on General Fund Balance:</b> | <b>\$5,853,421</b>           | <b>(\$3,117,729)</b>         |

| <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |                               |
|------------|-----------|----------------------------------|------------|-----------|-------------------------------|
| X          |           | Significant Local Gov. Impact    | X          |           | Technical Concerns            |
|            | X         | Included in the Executive Budget | X          |           | Significant Long-Term Impacts |

## Fiscal Analysis

### ASSUMPTIONS:

#### Property Tax

1. This law is effective on January 1, 2000.
2. The costs of submitting the tax increases to the electorate are included in LC539.

#### Class 9 Property

3. All electric utility generation, transmission and distribution, and general plant facilities are transferred from Class 9 (12%) to a new Class 13 and taxed at 6% of their market value on January 1, 2000, except for electrical generation facilities used for noncommercial purposes, exclusively for agricultural purposes, or qualifying small power production facilities.

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(continued)

4. The assessed value for Class 9 electrical facilities is not greater in FY2000 or FY2001 than the assessed value in 1998.
5. The 1998 market value of all electric generation, distribution and transmission, and general properties of the electrical generating companies used to calculate fiscal impacts for FY2001 is \$2,453,872,433. The total taxable value of all affected investor owned electrical production facilities in 1998 is \$294,464,691 (\$2,453,872,433 x 12%). Total property taxes on all investor-owned electrical facilities were \$78,296,646 for tax year 1998.
6. Under this bill, the total taxable value of all investor-owned electrical facilities in tax year 2000 (FY2001) is \$147,232,346. This reduces property taxes levied on this property by a total of \$39,148,322. Of this amount, funding for the state general fund is reduced by \$13,987,073; the university system by \$883,394; and local governments and schools by \$24,277,855.

#### Class 7

7. The tax rate of Class 7 property will change from 8% in 1998 to 6% on January 1, 2000.
8. There was no rural electric cooperative association property in class 7 in 1998. Rural electric cooperative property that was in Class 9 at 12% will be moved to Class 7 after December 31, 1999. Total property taxes on all rural electric cooperative associations being moved into Class 7 are estimated to be \$38,559 in tax year 1998. Taxes on this property will be reduced to \$19,280 in FY2000 and FY2001, resulting in a loss of revenue of \$4,049 to the state general fund; \$256 to the university system; and \$14,974 to local governments and schools in each of these fiscal years.
9. Existing property within Class 7 includes small, local-exchange telecommunication companies. The taxable value of these properties will be reduced from \$1,656,023 (8%) in tax year 1998, to \$1,242,017 (6%) in tax year 2000. As a result, current property taxes of \$548,342 in 1998 will be reduced to \$411,256 in FY2001, for a total reduction of \$137,086. This reduces revenue to the state general fund by \$39,331; to the university system by \$2,484; and to local governments and schools by \$95,271 in FY2001.

#### **Additional Electric Energy Producer's License Tax**

10. Effective January 1, 2000, an additional license tax is imposed on the production of all electricity in the state at a rate of 0.06 cent per kilowatt hour. The electrical energy produced by a qualifying small power production facility pursuant to a contract for sale of the electricity to a public utility or rural electric cooperative is exempt from the tax.
11. In FY2000, in-state generating facilities are estimated to produce 22,926,755,000 kilowatt hours of electricity; in FY2001, in-state generating facilities are estimated to produce 23,073,843,000 kilowatt hours of electricity (HJR2).
12. An additional license tax of .06 cent per kilowatt-hour will produce an estimated \$6,878,026 in tax revenues in FY2000 (half year), and an estimated \$13,844,306 in FY2001. All of this revenue is deposited in the state special revenue account for subsequent distribution to taxing jurisdictions adversely impacted by property tax changes in this bill.

#### **Excise Tax**

13. A new electricity consumption tax (excise tax) will take effect January 1, 2000. The excise tax applies to all residential consumers at the rate of \$0.25 cent per kilowatt hour (\$0.175 cent per kilowatt hour for customers of utilities deferring compliance with Title 69, Chapter 8). A "distribution service provider" will collect the tax and will forward it to the department.
14. Non-residential consumers can elect to be a "self assessing purchaser". They may elect to pay the excise tax based on the per kilowatt hour fees described above, or they may choose to pay 5.1% ( 3.1% for

(continued)

customers of utilities deferring compliance with Title 69, Chapter 8) of their delivered price of electricity. A self-assessing purchaser will forward the tax to the department on a quarterly basis.

15. Tax year 1997 data was obtained on in-state operating revenues and megawatt/hours of regulated utilities operating electric distribution systems in Montana prior to May 2, 1997 (see Section 4 of the bill). This information allowed a determination of whether nonresidential customers would favor paying at the per kilowatt hour rate or at the percentage of delivered price rate. The favored rate was chosen for each class of nonresidential customer. Based on this information, the Department of Revenue estimates that annualized revenue from the excise tax will be \$19,244,208 per year.

#### **Additional Generation Tax And Excise Tax – Reimbursement Distributions**

16. Tax receipts from the additional generation tax and the excise tax are deposited in a special revenue account for subsequent distribution to taxing jurisdictions experiencing property tax reductions to other provisions of this bill. Distributions are made quarterly. Allocations from the account will be made to taxing jurisdictions based on their relative proportion of total taxes levied on electric utility generation, transmission and distribution, and general plant property in tax year 1998. Taxing jurisdictions will receive a half year's worth of additional generation and excise tax in FY2000; and a full year's worth of additional generation and excise tax distribution in FY2001.
17. Electric utility property taxes were distributed 35.728% to the state general fund; 2.256% to the university system; and 62.015% to local governments and schools in tax year 1998.
18. In FY2000 the above assumptions result in total distributions of \$5,895,234 to the state general fund, \$372,331 to the university system, and \$10,232,565 to local governments and schools. There are no offsetting property tax reductions in FY2000.
19. In FY2001 the above assumptions result in distribution of generation and excise taxes of \$11,822,000 to the state general fund, \$746,653 to the university system, and \$20,519,862 to local governments and schools. Offsetting these distributions are property tax reductions of \$14,030,452 to the state general fund, \$886,134 to the university system, and \$24,388,100 to local governments and schools. This results in net reductions in FY2001 of \$2,208,452 to the state general fund, \$139,481 to the university system, and \$3,868,238 to local governments and schools.

#### **GTB Impacts**

20. The reduction in taxable values and reimbursement of non-levy revenue will cause school districts to change GTB levies in FY2001 to maintain minimum budgets required under section 20-9-308(1)(a), MCA (see technical note #2). The change will increase by \$873,539 the amount of state GTB aid in FY2001.

#### **Administrative Costs**

21. The department would require one additional FTE for administration of HB 174. The FTE would administer the application process, reporting requirements, distribution of the proceeds and other duties associated with implementation.

#### **FISCAL IMPACT:**

|                      | <u>FY2000<br/>Difference</u> | <u>FY2001<br/>Difference</u> |
|----------------------|------------------------------|------------------------------|
| FTE                  | 1.00                         | 1.00                         |
| <u>Expenditures:</u> |                              |                              |
| Personal Services    | \$33,446                     | \$33,216                     |
| Operating Expenses   | 6,367                        | 2,522                        |

(continued)

|               |          |                |
|---------------|----------|----------------|
| Equipment     | 2,000    | 0              |
| State-GTB Aid | <u>0</u> | <u>873,539</u> |
| TOTAL         | \$41,813 | \$909,277      |

Funding:

|                   |          |           |
|-------------------|----------|-----------|
| General Fund (01) | \$41,813 | \$909,277 |
|-------------------|----------|-----------|

Revenues:

|                            |             |               |
|----------------------------|-------------|---------------|
| General Fund (01)          | \$5,895,234 | (\$2,208,452) |
| State Special Revenue (02) | 372,331     | (139,481)     |

Net Impact to Fund Balance (Revenue minus Expenditure):

|                            |             |               |
|----------------------------|-------------|---------------|
| General Fund (01)          | \$5,853,421 | (\$3,117,729) |
| State Special Revenue (02) | 372,331     | (139,481)     |

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Local governments and schools will be impacted under this proposal. The reductions in property taxes provided for by reducing the taxable valuation rate of investor-owned electric utility property is to be reimbursed with new electric excise and generation taxes. To the extent that the new taxes do not equal the property tax reductions, these taxing jurisdictions will be over- or under-reimbursed. Based on the assumptions in this fiscal note, local governments and schools would receive a reimbursement of \$10,232,565 in FY2000 and would experience a net reduction in revenue of (\$3,868,238) in FY2001.

LONG-RANGE IMPACTS:

The long-range impacts of this proposal will depend on a variety of factors. First, the pending sale of electric generation property will impact the taxable value of these properties significantly. Increases in the value of these properties above the 1998 levels used in this analysis will act to mitigate the reductions in property taxes provided herein. Also, revenue from the new generation and excise taxes is based on 1997 information. If consumption should rise in future years, this amount of revenue would increase as well. It is very difficult at this time to forecast the net impacts that the various factors will have in future years.

TECHNICAL NOTES:

1. Section 24 discusses the reimbursement ratio and distribution of the additional license tax and consumption tax. There is no discussion on the timing of the distribution to the taxing entities.
2. School districts are required to budget at the BASE level under section 20-9-308 (1)(a), MCA. With the reduction in taxable values under this bill provisions of CI-75 will require voter approval to increase tax rates to continue to meet the minimum budget requirement. If voters do not approve the increase, the district will be in violation of section 20-9-308, MCA.

# FISCAL NOTE

Bill #: HB0174  
 Primary sponsor: Chase Hibbard

Title: Generally revise taxation of electric utilities

Status: 3<sup>rd</sup> Reading

Sponsor signature: Dave Lewis Date: 4-5-99  
 Dave Lewis, Budget Director Date

## Fiscal Summary

|                                            | <u>FY2000<br/>Difference</u> | <u>FY2001<br/>Difference</u> |
|--------------------------------------------|------------------------------|------------------------------|
| <b>Expenditures:</b>                       |                              |                              |
| General Fund                               | \$84,157                     | \$13,634,109                 |
| <b>Revenue:</b>                            |                              |                              |
| General Fund                               | \$1,792,632                  | (\$2,557,566)                |
| State Special Revenue                      | 0                            | (387,969)                    |
| <b>Net Impact on General Fund Balance:</b> | <b>\$1,708,475</b>           | <b>(\$16,191,675)</b>        |

| <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |                               |
|------------|-----------|----------------------------------|------------|-----------|-------------------------------|
| X          |           | Significant Local Gov. Impact    | X          |           | Technical Concerns            |
|            | X         | Included in the Executive Budget | X          |           | Significant Long-Term Impacts |

## Fiscal Analysis

### ASSUMPTIONS:

#### **Property Tax Impact**

- This proposal is effective on January 1, 2000.
- All investor-owned electric utility generation facilities are transferred from class 9 (12%) to a new class 13 and taxed at 6% of their market value on January 1, 2000, except for electrical generation facilities used for noncommercial purposes, exclusively for agricultural purposes, or qualifying small power production facilities.
- The assessed value for the electrical facilities property remaining in class 9 is not greater in FY2000 or FY2001 than the assessed value in 1998.
- The 1998 market value of investor-owned electric generation properties was \$1,433,721,647. The total 1998 property tax on all investor-owned electrical generating facilities was \$33,567,759.
- The tax year 2000 market value of all investor-owned electric generation property is \$1,945,470,508. The market value reflects a pending sales price of specific generating facilities. The tax year 2000 market value also includes the 1998 market value of facilities not subject to the pending sale.

HB 174 #2

(continued)

6. There are no property tax reductions until FY2001. The total taxable value of all investor-owned electric generating facilities in FY2001 is \$116,728,230 ( $\$1,945,470,508 \times .06$ ). This lowers electric generation property taxes to \$26,712,588, a reduction of \$6,863,937 from the 1998 level. Of this amount, funding the state general fund is reduced by \$5,255,244; the university system by \$331,911; and local governments and schools by \$1,276,783.
7. The assessed value of generation property will change between 1998 and implementation of this bill. Positive and negative changes in taxable value will occur in each levy district where generation property is located. It is assumed that the statewide total of taxes generated will not change substantially from current levels due to the revaluation of the generating property and subsequent change in taxable value.
8. Local governments and schools are reimbursed based on the reimbursement formula contained in the bill.
9. The state general fund, university fund, and assessment for state assumption of welfare aren't reimbursed.

**Wholesale Energy Transaction Tax (Wet Tax)**

10. The WET tax applies to kilowatts per hour (kWh) of electricity produced or consumed in Montana. Electrical production is subject to the tax whether consumed in Montana or exported to another state. Electricity consumed in Montana is subject to the WET tax whether generated in Montana or imported for consumption from another state. The WET tax is applied to electrical transmission at the rate of 0.015 cent/kWh. The transmission service provider collects the tax on a quarterly basis.
11. Exemptions to the Wet Tax include: a) electricity that is transmitted through the state that is neither produced nor consumed in the state; b) electricity generated in the state by an agency of the federal government for delivery outside the state; c) electricity delivered to a distribution services provider that is a municipal utility described in 69-8-103(5)(b) or a rural electric cooperative; d) electricity delivered to a purchaser that receives its power directly from a transmission or distribution facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is transmitted exclusively on transmission or distribution facilities owned by an entity of the United States government on or before May 2, 1997; e) electricity meeting certain contractual requirements that is delivered by a distribution services provider that was first served by a public utility after December 31, 1996; f) electricity that has been subject to the transmission tax in another state.
12. The electric generation figures from HJR2 are used to estimate the WET tax. In addition, information on the amount of electricity imported into the state was obtained from industrial users and electric power companies. Based on this information, the WET Tax is estimated to produce \$1,792,632 in FY2000 and \$3,585,263 in FY2001 and is deposited to the State general fund.

**Reimbursement Distributions**

13. Reimbursements are distributed on a semi-annual basis to the county treasurer in the counties affected by a reduction in electric generation property taxes.
14. Distributions are based on each jurisdiction's assessed value of electric generation facilities and its current mill levy for each year.
15. In FY2001, reimbursements, based on the language in the bill, are anticipated to be \$15,622,906 for local governments and schools.

**4R Impact**

16. The reduction in taxable value of class 9 property reduces taxes paid by railroads and airlines per the 4Rs Act. In FY2001, the tax rate on class 12 (4R property) will decrease from 6.17% to 5.74%. In FY2001, the total revenue reduction for class 12 property is \$1,822,899. This is distributed \$887,585 for the state general fund; \$56,058 for the university account; and \$879,256 to local governments and schools.

**GTB Impacts**

17. The change in taxable values and non-levy revenue reimbursements based on the reimbursement formula under this bill will cause school districts to change GTB levies in FY2001 to maintain minimum budgets.

(continued)

required under section 20-9-308(1)(a), MCA. As a consequence, state GTB aid will decrease \$2,056,369 in FY2001 (school funding model).

**Administrative Costs**

18. The Department of Revenue will require 1.75 additional FTE for administration of HB174. The FTE will provide technical expertise, will review and implement the application process, reporting requirements, distribution of the proceeds and other administrative duties associated with implementation.

**FISCAL IMPACT:**

|  | FY2000            | FY2001            |
|--|-------------------|-------------------|
|  | <u>Difference</u> | <u>Difference</u> |

|                                 |          |                    |
|---------------------------------|----------|--------------------|
| FTE                             | 1.75     | 1.75               |
| <b><u>Expenditures:</u></b>     |          |                    |
| Personal Services               | \$64,237 | \$63,790           |
| Operating Expenses              | 8,830    | 3,782              |
| Equipment                       | 11,090   | 0                  |
| Local Assistance-Reimbursements |          | 15,622,906         |
| Local Assistance-School GTB     | 0        | <u>(2,056,369)</u> |
| Total                           | \$84,157 | \$13,634,109       |

**Funding:**

|                   |          |              |
|-------------------|----------|--------------|
| General Fund (01) | \$84,157 | \$13,634,109 |
|-------------------|----------|--------------|

**Revenues:**

|                                      |             |                  |
|--------------------------------------|-------------|------------------|
| General Fund – WET Tax (01)          | \$1,792,632 | \$3,585,263      |
| General Fund – 95 mills (01)         | 0           | (6,142,829)      |
| State Special Revenue – 6 mills (02) | 0           | <u>(387,969)</u> |
| Total                                | \$1,792,632 | (\$2,945,535)    |

**Net Impact to Fund Balance (Revenue minus Expenditure):**

|                            |             |                |
|----------------------------|-------------|----------------|
| General Fund (01)          | \$1,708,475 | (\$16,191,675) |
| State Special Revenue (02) | 0           | (387,969)      |

**EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:**

Under this proposal, the property tax revenue reduction to local governments and schools, including 4Rs revenue impacts, in FY2001, is \$2,156,039. However, per the reimbursement language in the bill they will be reimbursed \$15,622,906, for a positive net impact of \$13,466,867.

**LONG-RANGE IMPACTS:**

The long-range impacts of this proposal will depend on a variety of factors. The pending sale of electric generation property will change the taxable value of electric generation properties. Electricity subject to the WET Tax will fluctuate on an annual basis.

**TECHNICAL NOTES:**

1. The reimbursement mechanism for local government is calculated as stated in the bill.
2. The impacts of implementation of the bill can be calculated in one of two ways based on one's assumption regarding the timing of the pending sale of MPC assets. A sale completed in tax year 1999 would have the impacts shown below in Table 1. The market value of generation assets would increase by



(continued)

\$511,748,861 resulting in a net reduction in taxable value of \$55,318,000 and a net reduction in property taxes of \$6,855,284. A sale completed after TY1999 would have the impacts shown in Table 2. There would be no change in the market value of generation assets resulting in a reduction in taxable value of \$86,023,000 and a net reduction in property taxes of \$16,784,000.

**Table 1**  
**Calculated per the Fiscal Note**  
**Completion of Sale of Generating Assets is Included**

|               | HJR2          | PL            | Difference   |
|---------------|---------------|---------------|--------------|
| Market Value  | 1,433,721,647 | 1,945,470,508 | 511,748,861  |
| TV Rate       | 12%           | 6%            | -6%          |
| Taxable Value | 172,046,598   | 116,728,230   | (55,318,367) |
| Mill Levies:  |               |               |              |
| - State:      | 0.09500       | 0.09500       | 0            |
| - All Other:  | 0.10011       | 0.13384       | 0            |
| - Total Mill  | 0.19511       | 0.22884       | 0            |
| Total Taxes   |               |               | 0            |
| State         | 16,344,427    | 11,089,182    | (5,255,245)  |
| All Other     | 17,223,413    | 15,623,373    | (1,600,040)  |
| Total         | 33,567,840    | 26,712,555    | (6,855,284)  |

**Table 2**  
**If Pending Sale does not proceed**  
**Generating Assets based on 1998 Values**

|               | CL            | PL            | Difference   |
|---------------|---------------|---------------|--------------|
| Market Value  | 1,433,721,647 | 1,433,721,647 | 0            |
| TV Rate       | 12%           | 6%            | -6%          |
| Taxable Value | 172,046,598   | 86,023,299    | (86,023,299) |
| Mill Levies:  |               |               |              |
| - State:      | 0.09500       | 0.09500       | 0            |
| - All Other:  | 0.10011       | 0.10011       | 0            |
| - Total Mill  | 0.19511       | 0.19511       | 0            |
| Total Taxes   | 33,567,759    | 16,783,920    | (16,783,839) |
| State         | 16,344,427    | 8,172,213     | (8,172,213)  |
| All Other     | 17,223,413    | 8,611,706     | (8,611,706)  |
| Total         | 33,567,840    | 16,783,920    | (16,783,920) |

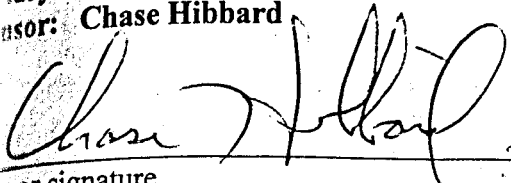
# FISCAL NOTE

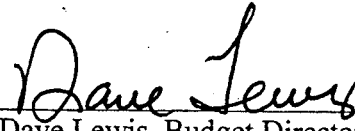
HB0174

Title: Generally revise taxation of electric utilities

Author: Chase Hibbard

Status: 3<sup>rd</sup> Reading

  
Author signature Date

 4-13-99  
Dave Lewis, Budget Director Date

## Fiscal Summary

|                                            | <u>FY2000<br/>Difference</u> | <u>FY2001<br/>Difference</u> |
|--------------------------------------------|------------------------------|------------------------------|
| <b>Expenditures:</b>                       |                              |                              |
| General Fund                               | \$84,157                     | (\$712,014)                  |
| <b>Revenue:</b>                            |                              |                              |
| General Fund                               | \$1,701,000                  | (\$2,717,829)                |
| State Special Revenue                      | 0                            | (387,969)                    |
| <b>Net Impact on General Fund Balance:</b> | <b>\$1,616,843</b>           | <b>(\$2,005,815)</b>         |

| <u>Yes</u> | <u>No</u> |                                  | <u>Yes</u> | <u>No</u> |                               |
|------------|-----------|----------------------------------|------------|-----------|-------------------------------|
| X          |           | Significant Local Gov. Impact    | X          |           | Technical Concerns            |
|            | X         | Included in the Executive Budget | X          |           | Significant Long-Term Impacts |

## Fiscal Analysis

### ASSUMPTIONS:

#### Property Tax Impact

1. This proposal is effective on January 1, 2000.
2. All investor-owned electric utility generation facilities are transferred from class 9 (12%) to a new class 13 and taxed at 6% of their market value on January 1, 2000, except for electrical generation facilities used for noncommercial purposes, exclusively for agricultural purposes, or qualifying small power production facilities.
3. The assessed value for the electrical facilities property remaining in class 9 is not greater in FY2000 or FY2001 than the assessed value in 1998.
4. The 1999 market value of investor-owned is not known at this time. For purposes of this fiscal note, the 1998 market value is used. The 1998 market value of investor-owned electric generation properties was \$1,433,721,647. The total 1998 property tax on all investor-owned electrical generating facilities was \$33,567,759.

HB 174 #3

(continued)

5. The tax year 2000 market value of all investor-owned electric generation property is estimated to be \$1,945,470,508. The market value reflects a pending sales price of specific generating facilities. The tax year 2000 market value also includes the 1998 market value of facilities not subject to the pending sale.
6. There are no property tax reductions until FY2001. The total taxable value of all investor-owned electric generating facilities in FY2001 is \$116,728,230 ( $\$1,945,470,508 \times .06$ ). This lowers electric generation property taxes to \$26,703,821, a reduction of \$6,863,937 from the 1998 level. Of this amount, funding from the state general fund is reduced by \$5,255,244; the university system by \$331,911; and local governments and schools by \$1,276,783.
7. The assessed value of generation property will change between 1998 and implementation of this bill. Both positive and negative changes in taxable value will occur in each levy district where generation property is located. It is assumed that the statewide total of taxes generated will not change substantially from current levels due to the revaluation of the generating property and subsequent change in taxable value.
8. Local governments and schools are reimbursed based on the reimbursement formula contained in the bill.
9. The state general fund, the university fund, and any assessment for state assumption of welfare are not reimbursed.

#### **Wholesale Energy Transaction Tax (Wet Tax)**

10. The WET tax applies to kilowatts per hour (kWh) of electricity produced or consumed in Montana. Electrical production is subject to the tax whether consumed in Montana or exported to another state. Electricity consumed in Montana is subject to the WET tax whether generated in Montana or imported for consumption from another state. The WET tax is applied to electrical transmission at the rate of 0.015 cent/kWh. The transmission service provider collects the tax on a quarterly basis.
11. Exemptions to the Wet Tax include: a) electricity that is transmitted through the state that is neither produced nor consumed in the state; b) electricity generated in the state by an agency of the federal government for delivery outside the state; c) electricity delivered to a distribution services provider that is a municipal utility described in 69-8-103(5)(b) or a rural electric cooperative; d) electricity delivered to a purchaser that receives its power directly from a transmission or distribution facility owned by an entity of the United States government on or before May 2, 1997, or electricity that is transmitted exclusively on transmission or distribution facilities owned by an entity of the United States government on or before May 2, 1997; e) electricity meeting certain contractual requirements that is delivered by a distribution services provider that was first served by a public utility after December 31, 1996; f) electricity that has been subject to the transmission tax in another state.
12. The electric generation figures from HJR2 are used to estimate the WET tax. In addition, information on the amount of electricity imported into the state was obtained from industrial users and electric power companies. Based on this information, the WET Tax is estimated to produce \$1,701,000 in FY2000 and \$3,425,000 in FY2001. The tax is deposited to the State general fund.

#### **Reimbursement Distributions**

13. Reimbursements are distributed on a semi-annual basis to the county treasurer in the counties affected by a reduction in electric generation property taxes.
14. Distributions are based on each jurisdiction's change in assessed value of electric generation facilities and its previous years mill levy.
15. In FY2001, reimbursements, based on the language in the bill, are anticipated to be \$1,276,783 for local governments and schools.

#### **4R Impact**

16. The reduction in taxable value of class 9 property reduces taxes paid by railroads and airlines per the 4Rs Act. In FY2001, the tax rate on class 12 (4R property) will decrease from 6.17% to 5.74%. In FY2001, the

(continued)

total revenue reduction for class 12 property is \$1,822,899. This is distributed \$887,585 for the state general fund; \$56,058 for the university account; and \$879,256 to local governments and schools.

**GTB Impacts**

17. The change in taxable values and non-levy revenue reimbursements based on the reimbursement formula under this bill will cause school districts to change GTB levies in FY2001 to maintain minimum budgets required under section 20-9-308(1)(a), MCA. As a consequence, state GTB aid will decrease \$2,056,369 in FY2001 (school funding model).

**Administrative Costs**

18. The Department of Revenue will require 1.75 additional FTE for administration of HB174. The FTE will provide technical expertise will review and implement the application process, reporting requirements, distribution of the proceeds and other administrative duties associated with implementation.

**FISCAL IMPACT:**

|                                 | FY2000<br><u>Difference</u> | FY2001<br><u>Difference</u> |
|---------------------------------|-----------------------------|-----------------------------|
| FTE                             | 1.75                        | 1.75                        |
| <b><u>Expenditures:</u></b>     |                             |                             |
| Personal Services               | \$64,237                    | \$63,790                    |
| Operating Expenses              | 8,830                       | 3,782                       |
| Equipment                       | 11,090                      | 0                           |
| Local Assistance-Reimbursements |                             | 1,276,783                   |
| Local Assistance-School GTB     | <u>0</u>                    | <u>(2,056,369)</u>          |
| Total                           | \$84,157                    | (\$712,014)                 |

**Funding:**

|                   |          |             |
|-------------------|----------|-------------|
| General Fund (01) | \$84,157 | (\$712,014) |
|-------------------|----------|-------------|

**Revenues:**

|                                      |             |                  |
|--------------------------------------|-------------|------------------|
| General Fund - WET Tax (01)          | \$1,701,000 | \$3,425,000      |
| General Fund - 95 mills (01)         | 0           | (6,142,829)      |
| State Special Revenue - 6 mills (02) | <u>0</u>    | <u>(387,969)</u> |
| Total                                | \$1,701,000 | (\$2,717,829)    |

**Net Impact to Fund Balance (Revenue minus Expenditure):**

|                            |             |               |
|----------------------------|-------------|---------------|
| General Fund (01)          | \$1,616,843 | (\$2,005,815) |
| State Special Revenue (02) | 0           | (387,969)     |

**EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:**

Under this proposal, the property tax revenue reduction to local governments and schools, including 4Rs revenue impacts, in FY2001, is \$2,156,039. However, per the reimbursement language in the bill they will be reimbursed \$1,276,783. There is no language dealing with reimbursement for lost revenue to the bills impact on Class 12 (4R Act) property..

**LONG-RANGE IMPACTS:**

The long-range impacts of this proposal will depend on a variety of factors. The pending sale of electric generation property will change the taxable value of electric generation properties. Electricity subject to the WET Tax will fluctuate on an annual basis.

TECHNICAL NOTES:

1. The reimbursement mechanism for local government is calculated as stated in the bill.
2. The following tables and information are provided for informational purposes. The impacts of implementation of the bill can be calculated in one of two ways based on one's assumption regarding the timing of the pending sale of MPC assets. A sale completed in tax year 1999 would have the impacts shown below in Table 1. The market value of generation assets would increase by \$511,748,861 resulting in a net reduction in taxable value of \$55,318,000 and a net reduction in property taxes of \$6,855,284. A sale completed after TY1999 would have the impacts shown in Table 2. There would be no change in the market value of generation assets resulting in a reduction in taxable value of \$86,023,000 and a net reduction in property taxes of \$16,784,000.

**Table 1**  
**Calculated per the Fiscal Note**  
**Completion of Sale of**  
**Generating Assets is Included**

| Tax Year 2000 |               |               |              |
|---------------|---------------|---------------|--------------|
|               | HJR2          | PL            | Difference   |
| Market Value  | 1,433,721,647 | 1,945,470,508 | 511,748,861  |
| TV Rate       | 12%           | 6%            | -6%          |
| Taxable Value | 172,046,598   | 116,728,230   | (55,318,367) |
| Mill Levies:  |               |               |              |
| - State:      | 0.09500       | 0.09500       | 0            |
| - U-Sys       | 0.00600       | 0.00600       |              |
| - All Other:  | 0.09411       | 0.12784       | 0.03373      |
| - Total Mill  | 0.18911       | 0.22884       | 0.03973      |
| Total Taxes   | 33,567,759    | 26,703,821    | (6,863,938)  |
| State         | 16,344,427    | 11,089,184    | (5,255,243)  |
| U-Sys         | 1,032,280     | 700,369       | (331,910)    |
| All Other     | 16,191,052    | 14,914,268    | (1,276,784)  |
| Total         | 33,567,759    | 26,703,821    | (6,863,937)  |

**Table 2**  
**If Pending Sale does not proceed**  
**Generating Assets based on 1998 Values**

| Tax Year 1998 |               |               |              |
|---------------|---------------|---------------|--------------|
|               | CL            | PL            | Difference   |
| Market Value  | 1,433,721,647 | 1,433,721,647 | 0            |
| TV Rate       | 12%           | 6%            | -6%          |
| Taxable Value | 172,046,598   | 86,023,299    | (86,023,299) |
| Mill Levies:  |               |               |              |
| - State:      | 0.09500       | 0.09500       | 0            |
| - U-Sys       | 0.00600       | 0.00600       | 0            |
| - All Other:  | 0.09411       | 0.09411       | 0            |
| - Total Mill  | 0.19511       | 0.19511       | 0            |
| Total Taxes   | 33,567,759    | 16,783,920    | (16,783,839) |
| State         | 16,344,427    | 8,172,213     | (8,172,213)  |
| U-Sys         | 1,032,280     | 516,140       | (516,140)    |
| All Other     | 16,191,133    | 8,095,567     | (8,095,567)  |
| Total         | 33,567,840    | 16,783,920    | (16,783,920) |

- 
- HB 152** SPONSOR: Anderson, Shiel SHORT TITLE: Public library district with taxing authority authorized  
BY REQUEST OF: State Library Commission  
REFERRED ON: 01/04/1999 HEARD ON: 01/15/1999  
EXECUTIVE ACTION: 01/29/1999 Bill Passed as Amended -- VOTE: 16 - 4  
FINAL DISPOSITION 02/03/1999 (H) 3rd Reading Failed; Vote: 49 - 51
- 
- HB 166** SPONSOR: Kasten, Betty Lou SHORT TITLE: Revise Dept. of Revenue collection of tax and debt -- suspend licenses  
BY REQUEST OF: Department Of Revenue  
REFERRED ON: 01/04/1999 HEARD ON: 01/15/1999  
TABLED ON: 02/17/1999  
FINAL DISPOSITION 03/31/1999 (H) Missed Deadline for Revenue Bill Transmittal
- 
- HB 168** SPONSOR: Kasten, Betty Lou SHORT TITLE: Revise statutes relating to the collection of certain debts by the state  
BY REQUEST OF: Department Of Revenue  
REFERRED ON: 01/04/1999 HEARD ON: 01/15/1999  
EXECUTIVE ACTION: 01/29/1999 Bill Passed -- VOTE: 14 - 6  
FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
- 
- HB 174** SPONSOR: Hibbard, Chase SHORT TITLE: Generally revise taxation of electrical generation facilities  
BY REQUEST OF: Revenue Oversight Committee  
REFERRED ON: 01/04/1999 HEARD ON: 02/12/1999  
EXECUTIVE ACTION: 03/26/1999 Bill Passed as Amended -- VOTE: 20 - 0  
TABLED ON: 03/19/1999  
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned
- 
- HB 177** SPONSOR: Hibbard, Chase SHORT TITLE: Increase electric generation tax  
BY REQUEST OF: Revenue Oversight Committee  
REFERRED ON: 01/04/1999 HEARD ON: 02/12/1999  
TABLED ON: 04/07/1999  
FINAL DISPOSITION 04/23/1999 (H) Died in Standing Committee
-

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on February 12, 1999  
at 8:00 A.M., in Room 437 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Kim Gillan, Vice Chairman (D)  
Rep. Bob Story, Vice Chairman (R)  
Rep. Gary Beck (D)  
Rep. Rick Dale (R)  
Rep. Bob Davies (R)  
Rep. Ron Erickson (D)  
Rep. Daniel Fuchs (R)  
Rep. Mary Anne Guggenheim (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Dan Harrington (D)  
Rep. John L. Holden (R)  
Rep. Verdell Jackson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bill Rehbein (R)  
Rep. Trudi Schmidt (D)  
Rep. Roger Somerville (R)

**Members Excused:** Rep. Sam Rose (R)

**Members Absent:** None.

**Staff Present:** Donna Grace, Committee Secretary  
Jeff Martin, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.



**Committee Business Summary:**

Hearing(s) & Date(s) Posted:

HB 174, 2/1/1999  
HB 177, 2/1/1999 (Cancelled)  
HB 178, 2/1/1999 (Cancelled)

Executive Action:

HB 305 - Table

**HEARING ON HB 174**

**Opening Statement by Sponsor:**

Rep. Chase Hibbard, House District 54, opened the hearing on HB 174. EXHIBIT(1)  
{Tape : 1; Side : A; Approx. Time Counter : 2}

**Proponents' Testimony:**

Dennis Burr, Montana Taxpayers Association. EXHIBIT(2),  
EXHIBIT(3), EXHIBIT(4), EXHIBIT(5), and EXHIBIT(6)  
{Tape : 1; Side : A; Approx. Time Counter : 23}

Roger Peterson, PP&L-Montana  
{Tape : 1; Side : B; Approx. Time Counter : 22.2}

Neil Colwell, Avista Corporation (formerly Washington Water Power) EXHIBIT(7)  
{Tape : 2; Side : A; Approx. Time Counter : 4.7}

Tom Ebzery, Attorney, testifying on behalf of the owners of the Colstrip Generating Plants. EXHIBIT(8)

Jerry Pederson, Montana Power Company  
{Tape : 2; Side : A; Approx. Time Counter : 19.3}

Russ Ritter, Montana Resources, Inc., Butte  
{Tape : 2; Side : A; Approx. Time Counter : 22.9}

Webb Brown, Montana Chamber of Commerce  
{Tape : 2; Side : A; Approx. Time Counter : 24.1}

Opponents' Testimony:

Tim Gregori, Manager, Big Horn Electric Coop, testifying for the Montana Electric Coop Association EXHIBIT(9)

{Tape : 2; Side : A; Approx. Time Counter : 24.1 continued through Tape: 2; Side: B; Approx. Time Counter: 19.0}

Betty Beverly, Montana Senior Citizens Association

{Tape : 2; Side : B; Approx. Time Counter : 20.4}

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 22.4}

Closing by Sponsor:

Rep. Hibbard closed.

{Tape : 3; Side : B; Approx. Time Counter : 13.9}

NOTE: Because of the changes made to HB 174, the hearings on HB 177 and HB 178 were cancelled.

{Tape : 3; Side : B; Approx. Time Counter : 20.0}

EXECUTIVE ACTION ON HB 305

Motion:

Rep. Harper MOVED DO PASS on HB 305.

{Tape : 3; Side : B; Approx. Time Counter : 22.6}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 23}

Vote:

On a roll call vote, the MOTION FAILED, 13 - 7. Story, Orr, Holden, Rose, Jackson, Dale, Somerville, Rehbein, Davies, Fuchs, Hanson, Gillan and Hibbard voting no; Schmidt, Guggenheim, Harrington, Erickson, Beck, Harper and Raney voting yes.

{Tape : 4; Side : A; Approx. Time Counter : 20.9}

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on March 19, 1999 at 8:00 A.M., in Room 437 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Kim Gillan, Vice Chairman (D)  
Rep. Bob Story, Vice Chairman (R)  
Rep. Gary Beck (D)  
Rep. Rick Dale (R)  
Rep. Bob Davies (R)  
Rep. Ron Erickson (D)  
Rep. Daniel Fuchs (R)  
Rep. Mary Anne Guggenheim (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Dan Harrington (D)  
Rep. John L. Holden (R)  
Rep. Verdell Jackson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bill Rehbein (R)  
Rep. Sam Rose (R)  
Rep. Trudi Schmidt (D)  
Rep. Roger Somerville (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Donna Grace, Committee Secretary  
Jeff Martin, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 667, HB 665, 4/12/1999

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 1.5}

EXECUTIVE ACTION ON HB 174

Discussion on Hibbard Amendment:

{Tape : 2; Side : A; Approx. Time Counter : 1.5 - 14.7}

Motion: Rep. Hibbard moved to amend the Amendment #17405

{Tape : 2; Side : A; Approx. Time Counter : 14.7 - 14.8}

Discussion:

{Tape : 2; Side : A; Approx. Time Counter : 14.8 - 20.0}

Vote: Motion carried 19-1 with Rep. Fuchs voting no.

{Tape : 2; Side : A; Approx. Time Counter : 20 - 20.7}

Discussion on Harrington Amendment:

{Tape : 2; Side : A; Approx. Time Counter : 20.7 - 30}

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 6.7}

Motion/Vote: Rep. Harrington moved Amendment #17404. Motion failed 9-10 with Reps. Story, Schmidt, Rose, Guggenheim, Somerville, Erickson, Rehbein, Davies, Raney, Gillan voting no.

{Tape : 2; Side : B; Approx. Time Counter : 6.7 - 7.7}

Chairman Hibbard referred to a discussion he had with Mr. Hardy from the Co-ops about his feeling in reading the Bill, that customers of Co-ops in areas other than those areas where they were competing head-to-head with an IOU, would be subject to the KWH tax and I informed him that that was not the case. They have gone back to look at the precise wording in the Bill and the wording is not real clear. The intent is for Co-op customers in service after 5-02-97 and a new service, regardless of when they are competing under 390, a new service or new customers under old service are not subject to the KWH tax.

{Tape : 2; Side : B; Approx. Time Counter : 7.7 - 10.1}

Jeff Martin, Legislative Staffer, gave a clarification.

{Tape : 2; Side : B; Approx. Time Counter : 10.1 - 11.8}

Motion/Vote: Rep. Rehbein offered a substitute motion to TABLE HB 174. Motion carried 11-9 with Reps. Story, Orr, Holden,

Jackson, Harrington, Dale, Somerville, Fuchs and Hibbard voting  
no.

{Tape : 2; Side : B; Approx. Time Counter : 11.8 - 13.9}

EXECUTIVE ACTION ON HB 540

Discussion:

{Tape : 2; Side : B; Approx. Time Counter : 13.9 - 21.6}

Motion: Rep. Harper moved to re-open for consideration HB 540.

Discussion:

Jeff Martin gave a technical explanation of Amendment 54001.

{Tape : 2; Side : B; Approx. Time Counter : 19.4 - 23.9}

Vote: Motion to reconsider HB 540 for the purpose of considering  
the technical amendments passed 20-0

{Tape : 2; Side : B; Approx. Time Counter : 23.9 - 24.2}

Motion/Vote: Rep. Harper moved the technical amendments #54001.

Motion passed 20-0

{Tape : 2; Side : B; Approx. Time Counter : 24.2 - 24.3}

Motion/Vote: Rep. Harper moved HB 540 Do Pass As Amended.

Motion passed 20-0

{Tape : 2; Side : B; Approx. Time Counter : 24.3 - 24.5}

Students from Missoula were introduced and received a welcome  
from the Committee.

{Tape : 2; Side : B; Approx. Time Counter : 24.5 - 27.9}

EXECUTIVE ACTION ON HB 582

Motion: Rep. Story moved Do Pass EXHIBIT(1)

Motion: Rep. Story moved Amendments #58201

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 0.5}

Discussion: EXHIBIT(2) EXHIBIT(3)

{Tape : 3; Side : A; Approx. Time Counter : 0.5 - 30.5}

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 2.4}

Motion: Rep. Somerville moved Amendments 58204 EXHIBIT(4)

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN CHASE HIBBARD**, on March 26, 1999 at 8:00 A.M., in Room 437 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Chase Hibbard, Chairman (R)  
Rep. Kim Gillan, Vice Chairman (D)  
Rep. Bob Story, Vice Chairman (R)  
Rep. Gary Beck (D)  
Rep. Rick Dale (R)  
Rep. Bob Davies (R)  
Rep. Ron Erickson (D)  
Rep. Daniel Fuchs (R)  
Rep. Mary Anne Guggenheim (D)  
Rep. Marian Hanson (R)  
Rep. Hal Harper (D)  
Rep. Dan Harrington (D)  
Rep. John L. Holden (R)  
Rep. Verdell Jackson (R)  
Rep. Scott J. Orr (R)  
Rep. Bob Raney (D)  
Rep. Bill Rehbein (R)  
Rep. Sam Rose (R)  
Rep. Trudi Schmidt (D)  
Rep. Roger Somerville (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Donna Grace, Committee Secretary  
Jeff Martin, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

Proponents' Testimony:

John Semple

{Tape : 2; Side : A; Approx. Time Counter : 18.2}

Opponents' Testimony:

None.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 19.9}

Closing by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 4.7}

EXECUTIVE ACTION ON HB 174

Motion/Vote:

Rep. Hibbard MOVED to REMOVE HB 174 FROM THE TABLE. The MOTION PASSED UNANIMOUSLY.

{Tape : 2; Side : B; Approx. Time Counter : 7.2}

Motion:

Rep. Hibard MOVED to ADOPT AMENDMENTS. EXHIBIT(3)

Discussion:

Neal Pohlman explained the WET Tax. EXHIBIT(4)

{Tape : 2; Side : B; Approx. Time Counter : 18.5}

Mary Bryson, Director, Department of Revenue, explained the fiscal note. EXHIBIT(5)

{Tape : 3; Side : A; Approx. Time Counter : 22.1}

Vote:

The MOTION PASSED unanimously.

{Tape : 3; Side : B; Approx. Time Counter : 10}

Motion:

Rep. Harrington MOVED to ADOPT AMENDMENTS. EXHIBIT(6)

{Tape : 3; Side : B; Approx. Time Counter : 10.4}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 12.1}

Vote:

On a voice vote, the MOTION PASSED, 18 - 2. Rehbein and Holden voting no.

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 1.4}

Motion:

Rep. Erickson MOVED a conceptual amendment which would increase the rate per KWH under the wholesale energy transmission tax.

{Tape : 4; Side : A; Approx. Time Counter : 10.6}

Vote:

On a voice vote, the MOTION FAILED, 18 - 2. Erickson and Guggenheim voting yes.

{Tape : 4; Side : A; Approx. Time Counter : 18.8}

Motion/Vote:

Rep. Hibbard MOVED that HB 174 AS AMENDED DO PASS. The MOTION PASSED unanimously.

Adjourn.

{Tape : 4; Side : A; Approx. Time Counter : 22}



**INDEX TO BILLS IN COMMITTEE**

June 30, 1999

**- Committee: (S) Taxation -**

05:12 PM

- 
- HB 139** SPONSOR: Harper, Hal SHORT TITLE: Revise LPG dealer tax return  
BY REQUEST OF: Department Of Transportation  
REFERRED ON: 01/27/1999 HEARD ON: 02/09/1999  
EXECUTIVE ACTION: 02/09/1999 Bill Concurred -- VOTE: 7 - 0  
FINAL DISPOSITION 03/02/1999 Chapter Number Assigned
- 
- HB 168** SPONSOR: Kasten, Betty Lou SHORT TITLE: Revise statutes relating to the collection of certain debts by the state  
BY REQUEST OF: Department Of Revenue  
REFERRED ON: 02/05/1999 HEARD ON: 03/04/1999  
EXECUTIVE ACTION: 03/08/1999 Bill Concurred -- VOTE: 8 - 1  
FINAL DISPOSITION 03/19/1999 Chapter Number Assigned
- 
- HB 174** SPONSOR: Hibbard, Chase SHORT TITLE: Generally revise taxation of electrical generation facilities  
BY REQUEST OF: Revenue Oversight Committee  
REFERRED ON: 03/30/1999 HEARD ON: 04/12/1999  
EXECUTIVE ACTION: 04/12/1999 Bill Concurred as Amended -- VOTE: 6 - 1  
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned
- 
- HB 240** SPONSOR: Swanson, Emily SHORT TITLE: Allow 5 yr tax credit for certain employers who make plan available to employees  
BY REQUEST OF: State Auditor  
BY REQUEST OF: Joint Select Committee On Jobs And Income  
REFERRED ON: 04/01/1999 HEARD ON: 04/13/1999  
TABLED ON: 04/13/1999  
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
- 
- HB 248** SPONSOR: Harrington, Dan SHORT TITLE: Use of municipal water or sewer utility is not a beneficial use  
REFERRED ON: 03/06/1999 HEARD ON: 03/09/1999  
EXECUTIVE ACTION: 04/13/1999 Bill Concurred as Amended -- VOTE: 8 - 1  
FINAL DISPOSITION 04/14/1999 (S) 2nd Reading Indefinitely Postponed; Vote: 47 - 2
- 
- HB 253** SPONSOR: Jore, Rick SHORT TITLE: Eliminate state inheritance tax  
REFERRED ON: 03/29/1999 HEARD ON: 04/09/1999  
TABLED ON: 04/13/1999  
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on April 12, 1999 at 8:00 A.M., in Room 413/415 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** Sen. Jon Ellingson (D)

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 174, 4/1/1999; HB 540,  
4/1/1999; HB 678, 4/1/1999  
Executive Action: HB 658; HB 661; HB 174

#### **HEARING ON HB 678**

**Sponsor:** REPRESENTATIVE ROBERT R. STORY JR., HD 24, PARK CITY

**Proponents:** Madalyn Quinlan, Office of Public Instruction  
Rod Sundsted, Commissioner of Higher Education  
Harold Blatty, Montana Association of Counties  
Jim Reno, Yellowstone County Commissioners  
Judy Paynter, Department of Revenue

Motion: SEN. ELLIS moved that HB 661 and HB 658 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. ECK said she will vote for this bill, but she encouraged the committee to be sure that these changes are part of the reimbursement.

SEN. ELLIS said that as amended, this bill won't affect the local tax base below ten barrels, but above ten barrels they will be affected some. CHAIRMAN DEVLIN asked if the Fiscal Note should reflect less impact for local governments, and SEN. ELLIS said it should be less for local governments and more for General Fund.

Vote: Motion carried 8-0. SEN. ELLIS will carry the bill.

HEARING ON HB 174

Sponsor: REPRESENTATIVE CHASE HIBBARD, HD 54, HELENA

Proponents: Jerome Anderson, PP&L Montana  
Dennis Burr, Montana Taxpayers Association  
Tom Ebzery, Pacificorp, Puget Sound Energy, Portland  
General Electric, Avista Corp.  
Russ Ritter, Montana Resources  
Neil Colwell, Avista Corp.  
Ernie Kindt, Montana Power Company  
Mike Uda, ASARCO  
Bob Gilbert, Rosebud County  
Chris Gallus, Montana Chamber of Commerce  
John Alke, MDU Resources

Opponents: None

Opening Statement by Sponsor:

REP. CHASE HIBBARD, HD 54, Helena, said this bill started in the 1997 session with some discussions about inevitable tax implications having to do with the passage of SB 390. This resulted in the deregulation of generation, and in so doing, we have joined 16 other states around the country, covering 50% of all electric consumers who now have choice and some form of deregulation. SB 390 directed the Revenue Oversight Committee to analyze the tax implications of restructuring and report to this legislative session. That committee found that 1) hidden taxes impede efficient, competitive production. He said in Montana 10.6% of a utility bill is state and local taxes. He said

Montana's antiquated tax structure distorts free-market competition. If we are noncompetitive, we face erosion of our market share and the subsequent erosion of our tax base as well.

**REP. HIBBARD** said the Revenue Oversight Committee also focused on the tax principles, the most important of which was competitive neutrality. Meeting a goal of competitive neutrality would mean that tax policy would not affect the consumer's choice when affecting the price.

**REP. HIBBARD** said this bill was originally submitted by the Revenue Oversight Committee, it changed on the eve of the first hearing, it changed again before executive action. It was tabled and was changed again to accommodate all the concerns that had developed during that course of events. One of the large concerns was that a kilowatt hour tax was imposed on consumers, and it was eliminated in the final draft. This particular bill taxes imports and exports of power, which was a concern previously. It addresses the concerns of the large industrial consumers who were getting hit very hard under the kilowatt hour tax, and the whole energy transmission tax in this bill amounts to about one-sixth of what the kilowatt hour tax was. It also addresses the philosophical concerns that were addressed by the co-ops, in that the WET tax should be included in the bill.

**REP. HIBBARD** explained that **HB 174** reduces the tax rate on electric generation facilities from 12% to 6% and establishes a new class, class thirteen, for electric generation and also the assets of telecommunications that are going to 12% to 6%. Transmission and distribution will remain regulated and will stay at a 12% rate. The generation tax will continue as it was previously, which raises approximately \$4.6 million per year. The WET tax will be imposed upon the owner of electricity that is transmitted on nonfederal transmission lines at a rate of 0.015 cents per kilowatt hour, which should raise \$3.5 million to \$4 million per year.

**REP. HIBBARD** said that the generator who exports from the state will pay the tax on that electricity. The distribution services provider, who is the local utility, pays the tax on all electricity that comes into his local distribution system. There is some electricity that is exempt from this WET tax: 1) the electricity purchased by rural electric cooperatives unless they have elected to compete, 2) electricity transmitted through the state that is neither produced nor delivered in the state, 3) electricity generated in the state by an agency of the federal government for delivery outside the state, and 4) electricity delivered to the Columbia Falls Aluminum Company. He said the collector of the WET tax is the owner of the transmission line.

If electricity is transmitted over more than one system, the last service provider to transmit the electricity will collect the tax, and it will be collected quarterly. He said there is also a provision in the bill to make whole local taxing jurisdictions.

**REP. HIBBARD** said an amendment posed by **REP. HARRINGTON** would exempt the purchases of AsiMI in Butte from the WET tax, because the contract was negotiated previous to this new tax, and this will expire when the contract is up. Any renegotiated contract would be subject to the new tax.

**REP. HIBBARD** said there is an amendment prepared by Jeff Martin and Lee Heiman which simply clarifies the reimbursement language and will allocate the centrally assessed telecommunications companies to this new class thirteen. He also said the Fiscal Note is inaccurate and he had not signed it. When the amendments are added, a new Fiscal Note can be prepared.

**Proponents' Testimony:**

**Jerome Anderson, PP&L Montana**, provided a handout entitled "Montana Tax and Transmission Cost Benchmarking," **EXHIBIT(8)**. He said PP&L Montana will be a local company headquartered in Billings, Montana, and will purchase and operate all the power generating facilities in Montana and Wyoming operated by the Montana Power Company, except the facility at Milltown. He said the classification of these facilities must be moved to the new class thirteen as provided for in **HB 174** because they need the reduction of the tax rate from 12% to 6%. He said his handout demonstrates the comparative tax rates in this area of the country. He urged support.

**Dennis Burr, Montana Taxpayers Association**, distributed a sheet which demonstrated what they consider to be the fiscal impact of **HB 174** with the amendment, **EXHIBIT(9)**. He said there was some language in the bill which required the Department of Revenue to use the wrong base value in calculating the difference between the tax at 12% and 6%, and with that amendment, these numbers are what you would see in a Fiscal Note. It reflects that the impact will be approximately \$3.4 million yearly.

**Tom Ebzery, Pacificorp, Puget Sound Energy, Avista Corp., Washington Water Power, and Portland General Electric**, said that these four entities, along with Montana Power Company, own the units at Colstrip. He said they had appeared before this committee on **SB 85** because they had problems with the wholesale energy transaction tax. He said he believes that the collection mechanism has been modified significantly, and they are in support of this legislation.

**Russ Ritter, Montana Resources**, said they were opposed to this legislation in its initial state; however, since the time the various negotiations have taken place, they now feel it is a good piece of legislation and they support it.

**Neil Colwell, Avista Corp.**, reminded the committee that they had had some issues and concerns with the WET tax in **SB 85**, but they feel they can support the concept that has been put into **HB 174**. He walked the committee through the mechanism of this bill. Page 3, Section 4: (a) sets out that transmission will be taxed at .015 cents per kilowatt; (b) states that generators pay the WET tax on generation that is exported outside of the state; (c) and (d) deal with electricity produced in the state or imported into the state for delivery to the distribution service providers; (e) sets out that the cooperative that has opted into competition will pay the WET tax on the energy that is delivered to those customers that are subject to competition; (f) is similar to (e) and clarifies which organization would pay the WET tax.

**Mr. Colwell** went on to subsection (2) which gets to details of how this actually works, specifying that the last transmission company collects the tax; (b) sets out the circumstances where a distribution service provider would pay the tax; (c) provides that that energy will only be taxed one time. Subsection (3) contains the exemptions from this tax; Subsection (4) ensures that a distribution services utility that is regulated can go to the PSC and apply for a recovery of these tax rates in their rates; and Subsection (5) is a multi-state exemption.

**Ernie Kindt, Montana Power Company**, said MPC stands in support of this bill. He said Montana Power Company has worked for several years with the Department of Revenue and the legislature to try and correct the problem of excessive taxes on generation and to create competitive taxes. He said this bill goes a long ways toward correcting that problem.

**Mike Uda, ASARCO**, said they were in opposition of this bill in its original form; however, they now believe this is a good piece of legislation, and they support this compromise which really brought together a variety of different interest groups.

**Bob Gilbert, Rosebud County**, said that Rosebud County and the newly incorporated city of Colstrip are at ground zero in this whole process. He said they like the provisions which make their citizens and their taxpayers held harmless in this legislation.

**Chris Gallus, Montana Chamber of Commerce**, said they rise in support of **HB 174**.

**John Alke, MDU Resources**, said MDU may end up being one of the last utilities in Montana that actually owns its own generation. He said this bill respects and protects a very wide range of interests, including those of MDU.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. BOHLINGER** asked, if **HB 174** is not passed, and if **PP&L** Montana were to have to pay the present rate of tax, whether they would have some second thoughts about completing the purchase of **MPC** operating assets, and **Mr. Anderson** said he could not speak for **PP&L Global**, but if that were to happen, it would be a tragic consequence for Montana.

**SEN. STANG** said in the sample Fiscal Note that **Mr. Burr** had provided, there was an increase in the **WET** tax of \$1.8 million in 2000, and he wondered if that tax would be passed on to the electrical customers of the state or would it be eaten for that one year. **Mr. Burr** said that was a good question, but that he thought the industry would say it will be eaten every year because competitive forces are going to determine the price of electricity and they are no longer in the position as generators to be able to pass tax through.

**SEN. STANG** said that in 2001 there is a \$3 million impact which would be an impact of \$6 million per biennium, and **Mr. Burr** said that was correct. **SEN. STANG** asked, then, if that is part of the reimbursement process that is involved in the other bill, and **Mr. Burr** said that was also correct.

**SEN. ELLIS** asked if he understood correctly that this **WET** tax will not be paid by power transmitted on federal lines, and **REP. HIBBARD** said that was what he said. It will not be paid by the federal transmitter as a taxpayer, but it will be paid by the distribution services company, and they will self-assess and submit it. **SEN. ELLIS** asked if out-of-state entities will have to pay this tax, or will it be paid by the generator, and **REP. HIBBARD** said the generator pays it when it goes out of state. **SEN. ELLIS** asked what the rationale was that co-ops do not pay this **WET** tax, and **SEN. HIBBARD** said that the tax structure is entirely different for co-ops than it is for investor-owned utilities, and there are historical justifications for the tax rates that are applied to each entity. These distinctions have been maintained in this bill. **SEN. ELLIS** asked what percentage of power co-ops sell in this state, and **SEN. HIBBARD** said he did not know.

**CHAIRMAN DEVLIN** asked when the ASiMI contract is up, and **REP. HIBBARD** said that at the end of the duration of the present contract, this exemption goes away, and that will be in 2002.

**SEN. STANG** asked if **Mr. Colwell** could explain further Section 4 (5), the multi-state exemption. **Mr. Colwell** said this provides some basic Constitutional protections and it is forward looking. This allows a consumer to not be taxed twice on the transmission of electricity if other states adopt transmission taxes.

**SEN. STANG** said that as long as we are exporting the product to another state, there will not be a credit, and **Mr. Colwell** said that was correct. **SEN. STANG** said, then, if we are importing from another state, we have to pay the tax, and there will be a credit for imports but not exports, and **Mr. Colwell** said in the instance that this tax were being imposed in both states, that would be the purpose, to charge only one transmission tax on a purchase transaction. **SEN. STANG** said the tax credit is basically aimed at electricity imported into the state from another state that might have that tax, and that there will be nothing in this credit that will prohibit us from exporting our tax to other states. **Mr. Colwell** said the concept of exporting the tax becomes more difficult in a commodity market.

**SEN. ECK** asked what other states are doing for taxation, and whether they have taxes that they will try to impose on the transmission of energy in Montana. **REP. HIBBARD** said that some of the states are setting taxation before they deregulate, some are doing it at the same time, some are deregulating first and considering taxes secondly. California and Montana are among the latter. He said eventually all of our surrounding states will change some tax policies regarding the competitive electric markets. This bill is structured in the WET tax so that there will be credits given to eliminate dual taxation. **SEN. ECK** said there is a mechanism in this bill for reimbursing local governments, but she wondered if **HB 678** is going to override all of these mechanisms. **REP. HIBBARD** said this bill has a very definite reimbursement scheme to make whole local taxing jurisdictions.

**SEN. ECK** said there is a lot of talk about mergers and sales, and that in another ten years there might be only three giant companies in the U.S., but she wondered how the sale of PP&L Global might have an effect on the situation in Montana. **REP. HIBBARD** said we have to look at what is happening with generation assets around the country. It has been predicted that very large companies will end up owning generation because competition is going to be fierce and extreme and a company is going to have to



have very deep pockets and a huge balance sheet in order to be in this business. **SEN. ECK** asked if PP&L Montana would be considered a small company, and **REP. HIBBARD** said he was not familiar enough to know, but their parent company is a very substantial company.

**CHAIRMAN DEVLIN** said the sheet provided that shows what the Fiscal Note may look like after the bill has been amended showed the property tax reduction, and he wondered if that reflected the increased value of those properties. **Mr. Burr** said it does. It is the difference between the 12% tax on the old values and the 6% tax on the new values. **CHAIRMAN DEVLIN** then asked, where it is going to be a continued reduction of \$3 million per year from 2001 and on, if there was any discussion about increasing the WET tax to cover that. **Mr. Burr** said it was the general opinion that it had been pushed just about as far as possible.

**SEN. STANG** said he noticed that this bill takes care of bonding provisions, but he wondered if those provisions were run by the State Bond Council to make sure they are sufficient. **REP. HIBBARD** said he did not know if they had been run by the State Bond Council, but they are consistent with the bonding provisions in other bills that have gone through that also address tax base. He said the security is still there no matter what tax rate exists. **SEN. STANG** asked if the bonding should be addressed in **HB 678**, and **REP. HIBBARD** said he felt the language is adequate, but the committee might want to double-check that.

**SEN. STANG** asked if it was the intent of PP&L to have their property assessed on the market value or will they come in later and appeal their taxes because they feel they should be assessed on the book value. **Mr. Paul Farr, the Financial Officer of PP&L Montana**, said it is the company's interpretation of existing law that the values that will be used for property tax assessment will be the fair value based on willing buyer/willing seller. **SEN. STANG** asked, then, if it was safe to assume that PP&L will not come in and appeal to the Department based on Montana Power's book value and would be willing to pay it on the market value. **Mr. Farr** said they would be willing to pay it in the initial year on the market value, but they would expect as their business develops within the state that they will be taxed on multiple bases.

**SEN. STANG** said that the \$30 million capital gain that might be available to the state from this sale of MPC's generating assets has been discussed, and he wondered if MPC will pay that \$30 million or will they do their best to see that they don't have to pay that. **Ed Bartlett, Montana Power Company**, said MPC does not

know exactly what their tax liability will be for the calendar year 1999, but if the sale were to close in 1999, as is hoped and expected, the proceeds that will be received from that sale do in fact increase their tax liability. There will be other occurrences within the year that will also increase that liability and some that will decrease it. **SEN. STANG** asked if **Mr. Bartlett** thinks that the Board of Directors of the Montana Power Company will do everything in their power to reduce their tax liability to as low as they can, and **Mr. Bartlett** said the tax exposure is one of the considerations that Montana Power, and any other prudent company, would make in making investments and making decisions, but that is not the driver. The driver is whether it is a correct business opportunity or not, and the tax liability flows from that.

**David Wheelihan, General Manager, Montana Electric Cooperatives**, said, in response to **SEN. ELLIS'S** question about the consumption of co-ops in the state, approximately 8% or 9% of the kilowatt hours generated or sold in Montana are used by electric co-ops, so the kilowatt hour tax will apply to those co-ops who open their system to competition consistent with the principles of **SB 390**.

**Closing by Sponsor:**

**REP. HIBBARD** said that if a co-op opts into competition under the terms of **SB 390**, they pay the same taxes. If they are not opting into competition, they don't pay it and they stay in the same tax structure as they were previously.

**SEN. HIBBARD** said he is no longer on the MPC board, but it is the job of any prudent business tax manager and board of directors to minimize taxes. They are not in the business of paying taxes. However, there is a common misconception about the \$30 million on the MPC sale, and that is, people think that that money between the cost and the book value and what is received can be put in any investment, even though it is a sale of generation assets. That is not true. It falls within a very narrow definition that has to do with those generation assets, and he believes that this \$30 million will probably materialize.

**REP. HIBBARD** also commented on whether or not the WET tax will be passed on. **Mr. Burr's** comment that if competition develops the way it probably will, it may end up being eaten and not be passed on to the consumer, but it is possible to pass it on, and it is also conceivable that it will be identified on the consumer's bill. On the average Montana customer's bill, it would amount to about \$2 a year.

said he would like to know the numbers of winners and losers because the Department had said there would not be many losers, and he would like to know the numbers above and below the average. **Mr. Gillett** said he would provide that information.

Closing by Sponsor:

**REP. GRINDE** said he hoped that this bill could be changed to accommodate these questions because he felt it was a good bill and needed to be passed.

EXECUTIVE ACTION ON HB 540

Motion/Vote: **SEN. STANG** moved AMENDMENT HB054004..APG. Motion carried 8-0.

Motion/Vote: **SEN. STANG** moved AMENDMENT HB054002.APG. Motion carried 8-0.

Motion/Vote: **SEN. STANG** moved AMENDMENT HB054003.APG. Motion carried 8-0.

EXECUTIVE ACTION ON HB 174

Motion: **SEN. DEPRATU** moved AMENDMENT HB017412.AJM, EXHIBIT(16).

Discussion:

**SEN. DEPRATU** said this is an amendment that takes care of a timing issue and keeps rural people under the co-op in the purchasing and exchange that went on up in the Flathead area. He said it keeps the people who are in the metro area and the incorporated cities still paying the tax, but keeps the co-op people in the rural areas from being impacted negatively.

**CHAIRMAN DEVLIN** asked if this had been perused by the affected parties, and **SEN. DEPRATU** said it had.

**SEN. ELLIS** asked what the impact of this amendment was, and **SEN. DEPRATU** said it was about \$142,000 impact for the WET tax.

**SEN. STANG** asked if the WET tax applied to the people in the Kalispell area, or to people all over the state, and **SEN. DEPRATU** said Kalispell was the only place because of the date specific, May 2, 1997. They got caught in the middle on this, and this resolves that matter.

**SEN. STANG** asked if someone could explain the effects of how they got caught in the middle and why. **Dave Wheelihan, Manager, Montana Electric Cooperatives**, said Flathead Electric purchased Pacificorp facilities in the Flathead Valley. They rolled approximately two-thirds of those members into their cooperative, but there was about one-third of the old Pacificorp members that they could not because of existing state law that if they formed a separate subsidiary that is regulated by the Public Service Commission, for those members, that is Whitefish, Kalispell and Columbia Falls, those people will be subject to the WET tax, but the two-thirds members that were rolled into the cooperative with this date change would be treated in the same manner as everybody else in the cooperative.

**SEN. STANG** asked if this amendment only affects the one-third that weren't in the co-op, and **Mr. Wheelihan** said it affects the two-thirds that are in now. He said the one-third was always subject to the WET tax because it is a fully regulated subsidiary. This affects the two-thirds that were rolled into the co-op. That co-op has opened up, and if those members chose, this WET will apply; so the fiscal impact could even be less than estimated.

**SEN. STANG** asked if they were in the process of opening up, and **Mr. Wheelihan** said they were.

**Vote:** Motion carried 8-0.

**Mr. Heiman** said HB017401.alh, **EXHIBIT(17)**, are the amendments mentioned by **REP. HIBBARD** that correct the distribution formula, 1 through 8. Amendment No. 9 on the second page is the coordinating instructions to **HB 128** which also changed the personal property on telecommunications property, and this melds the two class thirteen properties together in case both bills pass. On page 3, the new Section 35 is a coordination instruction with **HB 128** which passed out of this committee totally unamended. This amendment cleans up the contingent voidness provision in **HB 128**.

**Motion/Vote:** **SEN. STANG** moved **AMENDMENTS HB017401.ALH.** Motion carried 8-0.

**Motion:** **SEN. EKEGREN** moved that **HB 174 BE CONCURRED IN AS AMENDED.**

**Discussion:**

**SEN. STANG** said he was going to vote against it today even though he may vote for it on the floor. He said he felt he needed a little more time to study it.

**SEN. GLASER** said this bill has probably been the biggest fight in the legislature this session, but he feels that probably most everyone is happy with the present bill and it needs to be moved forward.

**SEN. ECK** said there was some coordinating language and there were comments that the reimbursement provisions in this bill will be rolled into the big reimbursement bill, but she wondered if there needed to be an amendment saying something to that effect. **Mr. Heiman** said that **HB 678** has all the coordinating instructions in it, so it will declare the provisions in this bill void and that will then cause the **HB 678** provisions to be used.

**Vote:** Motion carried 6-1 with Stang voting no.

**CHAIRMAN DEVLIN** said **SEN. THOMAS** had been asked to carry this.